

# Senate Calendar

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THURSDAY, MAY 07, 2015

SENATE CONVENES AT: 1:00 P.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**NEW BUSINESS**

**Third Reading**

**H. 18.**

An act relating to Public Records Act exemptions.

**Second Reading**

**Favorable**

**J.R.H. 8.**

Joint resolution relating to military suicides.

**Reported favorably by Senator Collamore for the Committee on Government Operations.**

(For text of resolution, see Senate Journal for April 14, 2015)

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 10, 2015, page 1007)

**House Proposal of Amendment**

**S. 9**

An act relating to improving Vermont's system for protecting children from abuse and neglect.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Legislative Findings \* \* \*

Sec. 1. LEGISLATIVE FINDINGS

(a) In 2014, the tragic deaths of two children exposed problems with Vermont's system intended to protect children from abuse and neglect. This act is intended to address these problems and implement the recommendations of the Joint Legislative Committee on Child Protection created by 2014 Acts and Resolves No. 179, Sec. C.109 and improve our State's system for protecting our children to help prevent future tragedies.

(b) To better prevent child abuse and neglect, Vermont must invest in proven strategies to support and strengthen families.

(c) To better protect Vermont's children from abuse and neglect, and to address the increasing burden of drug abuse and other factors that are ripping families apart, the General Assembly believes that our State's child protection system must be focused on the safety and best interests of children, comprehensive, and properly funded. This system must ensure that:

(1) the dedicated frontline professionals, including guardians ad litem, who struggle to handle the seemingly ever-increasing caseloads have the support, training, and resources necessary to do their job;

(2) children who have suffered abuse and neglect can find safe, nurturing, and permanent homes, whether with their custodial parents, relatives, or other caring families and individuals;

(3) the most serious cases of abuse are thoroughly investigated and prosecuted if appropriate;

(4) courts have the information and tools necessary to make the best possible decisions;

(5) all participants in the child protection system, from the frontline caseworker to the judge determining ultimate custody, work together to prioritize the child's safety and best interests; and

(6) an effective oversight structure is established.

(d) This act is only the beginning of what must be an ongoing process in which the House and Senate Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Human Services, in consultation with the Senate and House Committees on Appropriations, continue to enhance the statewide approach to the prevention of child abuse and neglect.

\* \* \* Agency of Human Services; Evidence-Informed Models \* \* \*

## Sec. 2. AGENCY OF HUMAN SERVICES EVIDENCE-INFORMED MODELS

The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize child safety and prevention of child abuse and neglect through early interventions with high risk families that develop family strengths and reduce the impact of adverse childhood experiences. The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.

\* \* \* Human Services; Child Welfare Services; Definitions \* \* \*

Sec. 3. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

\* \* \*

(14) “Risk of harm” means a significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury, ~~neglect, emotional maltreatment,~~ or sexual abuse, including as the result of:

(A) a single, egregious act that has caused the child to be at significant risk of serious physical injury;

(B) the production or preproduction of methamphetamines when a child is actually present;

(C) failing to provide supervision or care appropriate for the child’s age or development and as a result, the child is at significant risk of serious physical injury;

(D) failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;

(E) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and

(F) a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.

\* \* \*

(15) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child. Sexual abuse also includes the viewing, possession, or transmission of child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.

\* \* \*

(17) “Serious physical injury” means any intentional or malicious conduct that leaves a child with an injury or injuries that leave significant or permanent bodily damage or disfigurement, or both, or that leaves a child without the ability to perform normal functions of daily living.

\* \* \* Confidentiality \* \* \*

Sec. 4. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

(a) ~~Any~~ A mandated reporter is any:

(1) health care provider, including any:

(A) physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26;

(B) ~~any~~ resident physician;

(C) intern;

(D) ~~or any~~ hospital administrator in any hospital in this State;

(F) ~~whether or not so registered,~~ and any registered nurse;

(G) licensed practical nurse;

(H) medical examiner;

(I) emergency medical personnel as defined in 24 V.S.A. § 2651(6);

(J) dentist;

(K) psychologist; and

(L) pharmacist, ~~any other health care provider, child care worker;~~

(2) individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services, including any:

(A) school superintendent;

(B) headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11;

(C) school teacher;

(D) student teacher;

(E) school librarian;

(F) school principal; and

(G) school guidance counselor, and any other individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services;

(3) child care worker;

(4) mental health professional;

(5) social worker;

(6) probation officer;

(7) any employee, contractor, and grantee of the Agency of Human Services who have contact with clients;

(8) police officer;

(9) camp owner;

(10) camp administrator;

(11) camp counselor; or

(12) member of the clergy.

(b) As used in subsection (a) of this section, “camp” includes any residential or nonresidential recreational program.

(c) Any mandated reporter who has reasonable cause to believe that any child has been abused or neglected reasonably suspects abuse or neglect of a child shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. As used in this subsection, “camp” includes any residential or nonresidential recreational program.

~~(b)~~(d)(1) The Commissioner shall inform the person who made the report under subsection (a) of this section:

~~(1)~~(A) whether the report was accepted as a valid allegation of abuse or neglect;

~~(2)~~(B) whether an assessment was conducted and, if so, whether a need for services was found; and

~~(3)~~(C) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(2) Upon request, the Commissioner shall provide relevant information contained in the case records concerning a person's report to a person who:

(A) made the report under subsection (a) of this section; and

(B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.

(3) Any information disclosed under subdivision (2) of this subsection shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

(4) In providing information under subdivision (2) of this subsection, the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

\* \* \*

Sec. 4a. 33 V.S.A. § 4914 is amended to read:

§ 4914. NATURE AND CONTENT OF REPORT; TO WHOM MADE

A report shall be made orally or in writing to the Commissioner or designee. The Commissioner or designee shall request the reporter to follow the oral report with a written report, unless the reporter is anonymous. Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child's care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or the child's siblings; and any other information that ~~the reporter believes~~ might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the Commissioner or employees of the Department, then the report shall be directed to the Secretary of Human Services who shall cause the report to be investigated by other appropriate Agency staff. If the report is substantiated, services shall be offered to the child and to his or her family or caretaker according to the requirements of section 4915b of this title.

Sec. 5. 33 V.S.A. § 4921 is amended to read:

§ 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) The Commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The

Department may use and disclose information from such records in the usual course of its business, including to assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) The Commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the Department's response to the report. The Department shall inform the parent or guardian of his or her ability to request records pursuant to subsection (c) of this section. This section shall not apply if the parent or guardian is the subject of the investigation.

(c) Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation; and

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title.

(d) Upon request, Department records created under this subchapter shall be disclosed to:

(1) the ~~court~~ Court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;

(2) the Commissioner or person designated by the Commissioner to receive such records;

(3) persons assigned by the Commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the Department, an ~~assistant attorney general~~ Assistant Attorney General, or a ~~state's attorney~~ State's Attorney; and

(5) other State agencies conducting related inquiries or proceedings; and.

(6) ~~a Probate Division of the Superior Court involved in guardianship proceedings. The Probate Division of the Superior Court shall provide a copy of the record to the respondent, the respondent's attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the Court to have a strong interest in the welfare of the respondent. [Repealed.]~~

(e)(1) Upon request, relevant Department records or information created under this subchapter ~~may~~ shall be disclosed to:

(A) ~~service providers working with a person or child who is the subject of the report; and~~ A person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare.

(B) Health and mental health care providers working directly with the child or family who is the subject of the report or record.

(C) Educators working directly with the child or family who is the subject of the report or record.

(D) Licensed or approved foster care givers for the child.

(E) Mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report.

(F) A Family Division of the Superior Court involved in any proceeding in which custody of a child or parent-child contact is at issue.

(G) A Probate Division of the Superior Court involved in guardianship proceedings.

(H) ~~other~~ Other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the Department.

(3) In providing records or information under this subsection (e), the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

(4) In providing records or information under this section, the Department may also provide other records related to its child protection activities for the child.

(5) Any persons or agencies authorized to receive confidential information under this section may share such information with other persons or agencies authorized to receive confidential information under this section

for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

(f) Any records or information disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

Sec. 6. 33 V.S.A. § 5110 is amended to read:

#### § 5110. CONDUCT OF HEARINGS

(a) Hearings under the juvenile judicial proceedings chapters shall be conducted by the Court without a jury and shall be confidential.

(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the Court finds to have a proper interest in the case or in the work of the Court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the Court. An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the Court for admittance by filing a request with the clerk of the Court. This subsection shall not prohibit a victim's exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.

(c) There shall be no publicity given by any person to any proceedings under the authority of the juvenile judicial proceedings chapters except with the consent of the child, the child's guardian ad litem, and the child's parent, guardian, or custodian. A person who violates this provision may be subject to contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family Proceedings.

\* \* \* Juvenile Proceedings; General Provisions; Children in Need of Care or Supervision; Request for an Emergency Care Order \* \* \*

Sec. 7. 33 V.S.A. § 5302 is amended to read:

#### § 5302. REQUEST FOR EMERGENCY CARE ORDER

(a) If an officer takes a child into custody pursuant to ~~subdivision section 5301(1) or (2)~~ section 5301(1) or (2) of this title, the officer shall immediately notify the child's custodial parent, guardian, or custodian and release the child to the care of the child's custodial parent, guardian, or custodian unless the officer determines that the child's immediate welfare requires the child's continued absence from the home.

(b) If the officer determines that the child's immediate welfare requires the child's continued absence from the home, ~~the officer shall:~~

(1) ~~Remove~~ The officer shall remove the child from the child's surroundings, contact the Department, and deliver the child to a location designated by the Department. The Department shall have the authority to make reasonable decisions concerning the child's immediate placement, safety, and welfare pending the issuance of an emergency care order.

(2) ~~Prepare~~ The officer or a social worker employed by the Department for Children and Families shall prepare an affidavit in support of a request for an emergency care order and provide the affidavit to the State's Attorney. The affidavit shall include: the reasons for taking the child into custody; and to the degree known, potential placements with which the child is familiar; the names, addresses, and telephone number of the child's parents, guardian, custodian, or care provider; the name, address, and telephone number of any relative who has indicated an interest in taking temporary custody of the child. The officer or social worker shall contact the Department and the Department may prepare an affidavit as a supplement to the affidavit of the law enforcement officer or social worker if the Department has additional information with respect to the child or the family.

\* \* \*

\* \* \* Temporary Care Order; Custody \* \* \*

Sec. 8. 33 V.S.A. § 5308 is amended to read:

§ 5308. TEMPORARY CARE ORDER

(a) The Court shall order that legal custody be returned to the child's custodial parent, guardian, or custodian unless the Court finds by a preponderance of the evidence that a return home would be contrary to the best interests of the child ~~the child's welfare~~ child because any one of the following exists:

(1) A return of legal custody could result in substantial danger to the physical health, mental health, welfare, or safety of the child.

(2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.

(3) The child or another child residing in the same household is at substantial risk of physical or sexual abuse by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian. It shall constitute prima facie

evidence that a child is at substantial risk of being physically or sexually abused if:

(A) a custodial parent, guardian, or custodian receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and

(B) a custodial parent, guardian, or custodian knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.

(4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned the child.

(5) The child or another child in the same household has been neglected and there is substantial risk of harm to the child who is the subject of the petition.

(b) Upon a finding that ~~any of the conditions set forth in subsection (a) of this section exists~~ a return home would be contrary to the best interests of the child, the Court may issue such temporary orders related to the legal custody of the child as it deems necessary and sufficient to protect the welfare and safety of the child, including, ~~in order of preference~~:

(1) ~~A~~ a conditional custody order returning or granting legal custody of the child to the custodial parent, guardian, ~~or custodian~~, noncustodial parent, relative, or a person with a significant relationship with the child, subject to such conditions and limitations as the Court may deem necessary and sufficient ~~to protect the child~~;

~~(2)(A) An order transferring temporary legal custody to a noncustodial parent. Provided that parentage is not contested, upon a request by a noncustodial parent for temporary legal custody and a personal appearance of the noncustodial parent, the noncustodial parent shall present to the Court a care plan that describes the history of the noncustodial parent's contact with the child, including any reasons why contact did not occur, and that addresses:~~

~~(i) the child's need for a safe, secure, and stable home;~~

~~(ii) the child's need for proper and effective care and control; and~~

~~(iii) the child's need for a continuing relationship with the custodial parent, if appropriate.~~

~~(B) The Court shall consider court orders and findings from other proceedings related to the custody of the child.~~

~~(C) The Court shall transfer legal custody to the noncustodial parent unless the Court finds by a preponderance of the evidence that the transfer would be contrary to the child's welfare because any of the following exists:~~

~~(i) The care plan fails to meet the criteria set forth in subdivision (2)(A) of this subsection.~~

~~(ii) Transferring temporary legal custody of the child to the noncustodial parent could result in substantial danger to the physical health, mental health, welfare, or safety of the child.~~

~~(iii) The child or another child residing in the same household as the noncustodial parent has been physically or sexually abused by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent.~~

~~(iv) The child or another child residing in the same household as the noncustodial parent is at substantial risk of physical or sexual abuse by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent. It shall constitute prima facie evidence that a child is at substantial risk of being physically or sexually abused if:~~

~~(I) a noncustodial parent receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and~~

~~(II) the noncustodial parent knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.~~

~~(v) The child or another child in the noncustodial parent's household has been neglected, and there is substantial risk of harm to the child who is the subject of the petition.~~

~~(D) If the noncustodial parent's request for temporary custody is contested, the Court may continue the hearing and place the child in the temporary custody of the Department, pending further hearing and resolution of the custody issue. Absent good cause shown, the Court shall hold a further hearing on the issue within 30 days.~~

~~(3) An order transferring temporary legal custody of the child to a relative, provided:~~

~~(A) The relative seeking legal custody is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, stepparent, sibling, or step-sibling of the child.~~

~~(B) The relative is suitable to care for the child. In determining suitability, the Court shall consider the relationship of the child and the relative and the relative's ability to:~~

~~(i) Provide a safe, secure, and stable environment.~~

~~(ii) Exercise proper and effective care and control of the child.~~

~~(iii) Protect the child from the custodial parent to the degree the Court deems such protection necessary.~~

~~(iv) Support reunification efforts, if any, with the custodial parent.~~

~~(v) Consider providing legal permanence if reunification fails.~~

(2) an order transferring temporary legal custody of the child to a noncustodial parent or to a relative;

(3) an order transferring temporary legal custody of the child to a person with a significant relationship with the child; or

(4) an order transferring temporary legal custody of the child to the Commissioner.

~~(C)(c) The Court shall consider orders and findings from other proceedings relating to the custody of the child, the child's siblings, or children of any adult in the same household as the child.~~

(d) In considering ~~the suitability of a relative under this subdivision~~ (3) an order under subsection (b) of this section, the Court may order the Department to conduct an investigation of a person seeking custody of the child, and the suitability of that person's home, and file a written report of its findings with the Court. The Court may place the child in the temporary custody of the ~~Department~~ Commissioner, pending such investigation.

~~(4) A temporary care order transferring temporary legal custody of the child to a relative who is not listed in subdivision (3)(A) of this subsection or a person with a significant relationship with the child, provided that the criteria in subdivision (3)(B) of this subsection are met. The Court may make such orders as provided in subdivision (3)(C) of this subsection to determine suitability under this subdivision.~~

~~(5) A temporary care order transferring temporary legal custody of the child to the Commissioner.~~

~~(e)(e) If the Court transfers legal custody of the child, the Court shall issue a written temporary care order.~~

(1) The order shall include:

(A) a A finding that remaining in the home is contrary to the ~~child's~~ welfare best interests of the child and the facts upon which that finding is based; ~~and~~.

(B) a A finding as to whether reasonable efforts were made to prevent unnecessary removal of the child from the home. If the Court lacks sufficient evidence to make findings on whether reasonable efforts were made to prevent the removal of the child from the home, that determination shall be made at the next scheduled hearing in the case but, in any event, no later than 60 days after the issuance of the initial order removing a child from the home.

(2) The order may include other provisions as may be ~~necessary for the protection and welfare~~ in the best interests of the child, ~~such as~~ including:

(A) ~~establishing parent-child contact under such and terms and conditions as are necessary for the protection of the child. and terms and conditions for that contact;~~

(B) requiring the Department to provide the child with services, if legal custody of the child has been transferred to the Commissioner;

(C) requiring the Department to refer a parent for appropriate assessments and services, including a consideration of the needs of children and parents with disabilities, provided that the child's needs are given primary consideration;

(D) requiring genetic testing if parentage of the child is at issue;

(E) requiring the Department to make diligent efforts to locate the noncustodial parent;

(F) requiring the custodial parent to provide the Department with names of all potential noncustodial parents and relatives of the child; and

(G) establishing protective supervision and requiring the Department to make appropriate service referrals for the child and the family, if legal custody is transferred to an individual other than the Commissioner.

(3) If legal custody of a child is transferred to the Commissioner, the Commissioner shall provide the child with assistance and services. In his or her discretion, the Commissioner may provide assistance and services to other children and families to the extent that funds permit, ~~notwithstanding subdivision (2)(B) of this subsection.~~

~~(d) If a party seeks to modify a temporary care order in order to transfer legal custody of a child from the Commissioner to a relative or a person with a significant relationship with the child, the relative shall be entitled to preferential consideration under subdivision (b)(3) of this section, provided~~

~~that a disposition order has not been issued and the motion is filed within 90 days of the date that legal custody was initially transferred to the Commissioner. [Repealed.]~~

\* \* \* Adoption Act; Postadoption Contact Agreements \* \* \*

Sec. 9. 15A V.S.A. § 1-109 is amended to read:

§ 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR VISITATION OR COMMUNICATION UPON ADOPTION

When a decree of adoption becomes final, except as provided in Article 4 of this title and 33 V.S.A. § 5124, any order or agreement for visitation or communication with the minor shall be unenforceable.

Sec. 10. 33 V.S.A. § 5124 is added to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of the Department for Children and Families;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

(b) The Court shall approve the postadoption contact agreement if:

(1)(A) it determines that the child's best interests will be served by postadoption communication or contact with either or both parents; and

(B) in making a best interests determination, it may consider:

(i) the age of the child;

(ii) the length of time that the child has been under the actual care, custody, and control of a person other than a parent;

(iii) the desires of the child, the child's parents; and the child's intended adoptive parents;

(iv) the child's relationship with and the interrelationships between the child's parents, the child's intended adoptive parents, the child's siblings, and any other person with a significant relationship with the child;

(v) the willingness of the parents to respect the bond between the child and the child's intended adoptive parents;

(vi) the willingness of the intended adoptive parents to respect the bond between the child and the parents;

(vii) the adjustment to the child's home, school, and community;

(viii) any evidence of abuse or neglect of the child;

(ix) the recommendation of any guardian ad litem;

(x) the recommendation of a therapist or mental health care provider working directly with the child; and

(xi) the recommendation of the Department;

(2) it has reviewed and made each of the following a part of the Court record:

(A) a sworn affidavit by the parties to the agreement which affirmatively states that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress and that the parties have not relied on any representations other than those contained in the agreement;

(B) a written acknowledgment by each parent that the termination of parental rights is irrevocable, even if the intended adoption is not finalized, the adoptive parents do not abide by the postadoption contact agreement, or the adoption is later dissolved;

(C) an agreement to the postadoption contact or communication from the child to be adopted, if he or she is 14 years of age or older; and

(D) an agreement to the postadoption contact or communication in writing from the Department, the guardian ad litem, and the attorney for the child.

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

(1) the form of communication or contact to take place;

(2) the frequency of the communication or contact;

(3) if visits are agreed to, whether supervision shall be required, and if supervision is required, what type of supervision shall be required;

(4) if written communication or exchange of information is agreed upon, whether that will occur directly or through the Vermont Adoption Registry, set forth in 15A V.S.A. § 6-103;

(5) if the Adoption Registry shall act as an intermediary for written communication, that the signing parties will keep their addresses updated with the Adoption Registry;

(6) that failure to provide contact due to the child's illness or other good cause shall not constitute grounds for an enforcement proceeding;

(7) that the right of the signing parties to change their residence is not impaired by the agreement;

(8) an acknowledgment by the intended adoptive parents that the agreement grants either or both parents the right to seek to enforce the postadoption contact agreement;

(9) an acknowledgment that once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct;

(10) the finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption contact agreement; and

(11) a disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) A copy of the order approving the postadoption contact agreement and the postadoption contact agreement shall be filed with the Probate Division of the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3, and, if the agreement specifies a role for the Adoption Registry, with the Registry.

(e) The order approving a postadoption contact agreement shall be a separate order issued before and contingent upon the final order of voluntary termination of parental rights.

(f) The executed postadoption contact agreement shall become final upon legal finalization of an adoption under 15A V.S.A. Article 3.

Sec. 11. 15A V.S.A. Article 9 is added to read:

ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION  
OF POSTADOPTION CONTACT AGREEMENTS

§ 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF  
POSTADOPTION CONTACT AGREEMENTS

(a) An adoptive parent may petition the Court to modify or terminate a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes the best interests of the child are being compromised by the terms of the agreement. In an action brought under this section, the burden of proof shall be on the adoptive parent to show by clear and convincing evidence that the modification or termination of the agreement is in the best interests of the child.

(b) A former parent may petition for enforcement of a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in compliance with the terms of the agreement. In an action brought under this section, the burden of proof shall be on the former parent to show by a preponderance of the evidence that enforcement of the agreement is in the best interests of the child.

(c) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) The Court shall not act on a petition to modify or enforce the agreement unless the petitioner had in good faith participated or attempted to participate in mediation or alternative dispute resolution proceedings to resolve the dispute prior to bringing the petition for enforcement.

(e) Parties to the proceeding shall be the individuals who signed the original agreement created under 33 V.S.A. § 5124. The adopted child, if 14 years of age or older, may also participate. The Department for Children and Families shall not be required to be a party to the proceeding and the Court shall not order further investigation or evaluation by the Department.

(f) The Court may order the communication or contact be terminated or modified if the Court deems such termination or modification to be in the best interests of the child. In making a best interests determination, the Court may consider:

- (1) the protection of the physical safety of the adopted child or other members of the adoptive family;
- (2) the emotional well-being of the adopted child;

(3) whether enforcement of the agreement undermines the adoptive parent's parental authority; and

(4) whether, due to a change in circumstances, continued compliance with the agreement would be unduly burdensome to one or more of the parties.

(g) A Court-imposed modification of the agreement may limit, restrict, condition, or decrease contact between the former parents and the child, but in no event shall a Court-imposed modification serve to expand, enlarge, or increase the amount of contact between the former parents and the child or place new obligations on the adoptive parents.

(h) A hearing held to enforce, modify, or terminate an agreement for postadoption contact shall be confidential.

(i) Failure to comply with the agreement or petitioning the Court to enforce, modify, or terminate an agreement shall not form the basis for an award of monetary damages.

(j) An agreement for postadoption contact or communication under 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child turns 18 years of age or upon dissolution of the adoption.

Sec. 12. 33 V.S.A. § 152 is amended to read:

#### § 152. ACCESS TO RECORDS

(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent required by law or the Commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department or to carry out the Department's child protection obligations under chapters 49-59 of this title. The Commissioner shall first notify the person whose record is being requested.

\* \* \*

Sec. 13. 33 V.S.A. § 6911 is amended to read:

#### § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

(1) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his

or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee, for purposes of review of expungement petitions filed pursuant to section 4916c of this title; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

\* \* \*

(c) The Commissioner or ~~the Commissioner's~~ designee may disclose Registry information only to:

\* \* \*

(5) the Commissioner for Children and Families; or ~~the Commissioner's~~ designee; for purposes related to:

(A) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

(B) the Department's child protection obligations under chapters 49-59 of this title.

\* \* \*

Sec. 14. 33 V.S.A. § 4916c is amended to read:

§ 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

(a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has been placed on the Registry prior to July 1, 2009 and has been listed on the Registry for at least three years may file a written request with the Commissioner, seeking a review for the purpose of expunging an individual Registry record. A person whose name has been placed on the Registry on or after July 1, 2009 and has been listed on the Registry for at least seven years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record. The Commissioner shall grant a review upon request.

(2) A person who is required to register as a sex offender on a state's sex offender registry shall not be eligible to petition for expungement of his or her

Registry record during the period in which the person is subject to sex offender registry requirements.

(b)(1) The person shall have the burden of proving that a reasonable person would believe that he or she no longer presents a risk to the safety or well-being of children.

~~(2)~~ Factors to be considered by the The Commissioner shall ~~include~~ consider the following factors in making his or her determination:

~~(1)~~(A) the nature of the substantiation that resulted in the person's name being placed on the Registry;

~~(2)~~(B) the number of substantiations, ~~if more than one~~;

~~(3)~~(C) the amount of time that has elapsed since the substantiation;

~~(4)~~(D) the circumstances of the substantiation that would indicate whether a similar incident would be likely to occur;

~~(5)~~(E) any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education; ~~and~~

~~(6)~~(F) references that attest to the person's good moral character; ~~and~~

(G) any other information that the Commissioner deems relevant.

\* \* \*

\* \* \* Municipal and County Government; Special Investigative Units; Mission and Jurisdiction \* \* \*

Sec. 15. 24 V.S.A. § 1940 is amended to read:

§ 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the ~~state~~ State to special investigative units ~~to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities. The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009~~ which:

(1) shall investigate:

(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and

(B) potential violations of:

- (i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);
- (ii) 13 V.S.A. chapter 60 (human trafficking);
- (iii) 13 V.S.A. chapter 64 (sexual exploitation of children);
- (iv) 13 V.S.A. chapter 72 (sexual assault); and
- (v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

(2) may investigate:

(A) an incident in which a child suffers:

- (i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or
- (ii) death;

(B) potential violations of:

- (i) 13 V.S.A. § 2601 (lewd and lascivious conduct);
- (ii) 13 V.S.A. § 2605 (voyeurism); and
- (iii) 13 V.S.A. § 1304 (cruelty to a child); and

(C) an incident involving potential domestic violence or crimes against those with physical or developmental disabilities.

(b) A ~~task force or specialized~~ special investigative unit organized and operating under this section may accept, receive, and disburse in furtherance of its duties and functions any funds, grants, and services made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civic sources. Any employee covered by an agreement establishing a special investigative unit shall remain an employee of the donor agency.

(c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which shall ~~be comprised of~~ comprise the Attorney General, the Secretary of Administration, the Executive Director of the Department of State's Attorneys and Sheriffs, the Commissioner of Public Safety, the Commissioner for Children and Families, a representative of the Vermont Sheriffs' Association, a representative of the Vermont Association of Chiefs of Police, the Executive Director of the Center for Crime Victim Services, and the Executive Director of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative units organized and operating under this section ~~for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities~~ may apply to the Board for a grant

or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire Board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the Department of Public Safety, the Department for Children and Families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region. Preference shall also be given to grant applications which promote policies and practices that are consistent across the State, including policies and practices concerning the referral of complaints, the investigation of cases, and the supervision and management of special investigative units. However, a sheriff's department in a county with a population of ~~less~~ fewer than 8,000 residents shall upon application receive a grant of up to \$20,000.00 for 50 percent of the yearly salary and employee benefits costs of a part-time ~~specialized~~ special investigative unit investigator which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

(d) The Board may adopt rules relating to grant eligibility criteria, processes for applications, awards, and reports related to grants authorized pursuant to this section. The Attorney General shall be the adopting authority.

Sec. 16. 33 V.S.A. § 4915b(e) is amended to read:

~~(e) The Department shall report to and request assistance from law enforcement in the following circumstances:~~

~~(1) investigations of child sexual abuse by an alleged perpetrator age 10 or older;~~

~~(2) investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care;~~

~~(3) situations potentially dangerous to the child or Department worker. [Repealed.]~~

Sec. 17. 33 V.S.A. § 4915 is amended to read:

§ 4915. ASSESSMENT AND INVESTIGATION

\* \* \*

(g) The Department shall report to and receive assistance from law enforcement in the following circumstances:

(1) investigations of child sexual abuse by an alleged perpetrator 10 years of age or older;

(2) investigations of serious physical abuse or neglect requiring emergency medical care, resulting in death, or likely to result in criminal charges; and

(3) situations potentially dangerous to the child or Department worker.

(h) The Department shall report to the appropriate special investigative unit any valid allegation pursuant to subsection (b) of this section concerning an incident in which a child suffers, by other than accidental means:

(1) serious bodily injury as defined in 13 V.S.A. § 1021; and

(2) potential violations of:

(A) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(B) 13 V.S.A. chapter 60 (human trafficking);

(C) 13 V.S.A. chapter 64 (sexual exploitation of children); and

(D) 13 V.S.A. chapter 72 (sexual assault).

\* \* \* Penalties for Mandated Reporters, Public Officers, and Others \* \* \*

Sec. 18. [Deleted]

Sec. 19. [Deleted]

Sec. 20. [Deleted]

Sec. 21. [Deleted]

\* \* \* Department for Children and Families; Policies \* \* \*

Sec. 22. THE DEPARTMENT FOR CHILDREN AND FAMILIES,  
POLICIES, PROCEDURES, AND PRACTICES

(a) The Commissioner for Children and Families shall:

(1) ensure that Family Services Division policies, procedures, and practices are consistent with the best interests of the child and are consistent with statute;

(2) ensure that Family Services Division policies, procedures, and practices are consistent with each other and are applied in a consistent manner, in all Department offices and in all regions of the State;

(3) develop metrics as to the appropriate case load for social workers in the Family Services Division that take into account the experience and training of a social worker, the number of families and the total number of children a social worker is responsible for, and the acuity or difficulty of cases;

(4) ensure that all Family Services Division employees receive training on:

(A) relevant policies, procedures, and practices; and

(B) the employees' legal responsibilities and obligations;

(5) develop policies, procedures, and practices to:

(A) ensure the consistent sharing of information, in a manner that complies with statute, treatment providers, courts, State's Attorneys, guardians ad litem, law enforcement, and other relevant parties;

(B) encourage treatment providers and all agencies, departments, and other persons that support recovery to provide regular treatment progress updates to the Commissioner;

(C) ensure that courts have all relevant information in a timely fashion, and that Department employees file paperwork and reports in a timely manner;

(D) require that the Family Services Division assess a child's safety if:

(i) the child remains in a home from which other children have been removed; or

(ii) the child remains in the custody of a parent or guardian whose parental rights as to another child have been terminated;

(E) improve information sharing with mandatory reporters who have an ongoing relationship with a child;

(F) ensure that mandatory reporters are informed that any confidential information they may receive cannot be disclosed to a person who is not authorized to receive that information;

(G) ensure all parties authorized to receive confidential information are informed of their right to receive that information; and

(H) apply results-based accountability or other data-based quality measures to determine if children who receive services from the Family Services Division in different areas of the State have different outcomes and the reasons for those differences;

(6) ensure that all employees assigned to carry out investigations of child abuse and neglect have training or experience in conducting investigations and have a master's degree in social work or an equivalent degree, or relevant experience; and

(7) by September 30, 2015, develop and implement a Family Services Division policy requiring a six-month supervision period by the Department after a child is returned to the home from which he or she was removed due to abuse or neglect.

(b) The Commissioner for Children and Families shall, within available resources, develop a plan to implement the following policies, procedures, and practices, including identifying potential costs to:

(1) increase the number of required face-to-face meetings between Family Services Division social workers and children;

(2) increase the number of required home visits and require unannounced home visits by Family Services Division social workers; and

(3) require that all persons living in a household, or that will have child care responsibilities, will be assessed for criminal history and potential safety risks whenever a child who has been removed from a home is returned to that home.

(c) On or before September 30, 2015, the Commissioner shall submit a written response to the House Committees on Human Services and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary with the Commissioner's response to the issues in subsection (a) of this section, including the language of any new or amended policies and procedures.

\* \* \* Legislature; Establishing a Joint Legislative Child  
Protection Oversight Committee \* \* \*

#### Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE

(a) Creation. There is created a Joint Legislative Child Protection Oversight Committee.

(b) Membership. The Committee shall be composed of the following six members, who shall be appointed each biennial session of the General Assembly:

(1) Three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) Three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(3) One appointment shall be made from the following committees:

- (A) House Committee on Education;
- (B) Senate Committee on Education;
- (C) House Committee on Judiciary;
- (D) Senate Committee on Judiciary;
- (E) House Committee on Human Services; and
- (F) Senate Committee on Health and Welfare.

(c) Powers and duties.

(1) The Committee shall:

(A) Exercise oversight over Vermont's system for protecting children from abuse and neglect, including:

(i) evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;

(ii) determining if there are deficiencies in the system and the causes of those deficiencies;

(iii) evaluating which programs are the most cost-effective;

(iv) determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation;

(v) evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and

(vi) evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 24 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate.

(B) At least annually, report on the Committee's activities and recommendations to the General Assembly.

(2) The Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals and appropriations relating to protecting children from abuse and neglect.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Retaliation. No person who is an employee of the State of Vermont, or of any State, local, county, or municipal department, agency, or person involved in child protection, and who testifies before, supplies information to, or cooperates with the Committee shall be subject to retaliation by his or her employer. Retaliation shall include job termination, demotion in rank, reduction in pay, alteration in duties and responsibilities, transfer, or a negative job performance evaluation based on the person's having testified before, supplied information to, or cooperated with the Committee.

(f) Meetings.

(1) The member appointed from the Senate Committee on Health and Welfare shall call the first meeting of the Committee.

(2) The Committee shall select a Chair, Vice Chair, and Clerk from among its members and may adopt rules of procedure. The Chair shall rotate biennially between the House and the Senate members. A quorum shall consist of five members.

(3) When the General Assembly is in session, the Committee shall meet at the call of the Chair. The Committee may meet six times during adjournment, and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(h) Sunset. On June 1, 2018 this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.

\* \* \* Improvements to CHINS Proceedings \* \* \*

#### Sec. 24. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO CHINS PROCEEDINGS

(a) Creation. There is created a working group to recommend ways to improve the efficiency, timeliness, and process of Children in Need of Care or Supervision (CHINS) proceedings.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Chief Administrative Judge or designee;

(2) the Defender General or designee;

(3) the Attorney General or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Executive Director of State's Attorneys and Sheriffs or designee; and

(6) a guardian ad litem who shall be appointed by the Chief Superior Judge.

(c) Powers and duties. The Working Group shall study and make recommendations concerning:

(1) how to ensure that statutory time frames are met in 90 percent of proceedings;

(2) how to ensure that attorneys, judges, and guardians ad litem appear on time and are prepared;

(3) how to monitor and improve the performance and work quality of attorneys, judges, and guardians ad litem;

(4) how to ensure that there is a sufficient number of attorneys available to handle all CHINS cases, in all regions of the State, in a timely manner;

(5) the role of guardians ad litem, and how to ensure their information is presented to, and considered by, the court;

(6) how to expedite a new proceeding that concerns a family with repeated contacts with the child protection system;

(7) whether the adoption of American Bar Association standards for attorneys who work in the area of child abuse and neglect would be appropriate;

(8) the feasibility of creating a statewide Family Drug Treatment Court initiative to improve substance abuse treatment and child welfare outcomes;

(9) whether requiring a reunification hearing would improve child welfare outcomes;

(10) how and whether to provide financial assistance to individuals seeking to mediate a dispute over a postadoption contact agreement;

(11) how and whether to change the confidentiality requirements for juvenile judicial proceedings under 33 V.S.A. chapter 53;

(12) best practices regarding representation of children in juvenile judicial proceedings; and

(13) any other issue the Working Group determines is relevant to improve the efficiency, timeliness, process, and results of CHINS proceedings.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of the Attorney General. The Working Group may consult with any persons necessary in fulfilling its powers and duties.

(e) Report. On or before November 1, 2015, the Working Group shall provide a report on its findings and recommendations with respect to subdivisions (c)(1)–(5) of this section to the Joint Legislative Child Protection Oversight Committee, the House Committees on Human Services and on Judiciary, and the Senate Committees on Health and Welfare and on Judiciary. On or before November 1, 2016, the Working Group shall report its findings and recommendations with respect to subdivisions (c)(6)-(13) of this section to the same Committees.

(f) Meetings and sunset.

(1) The Attorney General or designee shall call the first meeting of the Working Group.

(2) The Working Group shall select a chair from among its members at the first meeting.

(3) The Working Group shall cease to exist on November 2, 2016.

\* \* \* Effective Dates \* \* \*

## Sec. 25. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except for this section, Secs. 22 (Department for Children and Families; policies, procedures, and practices), 23 (Joint Legislative Child Protection Oversight Committee), and 24 (Working Group to Recommend Improvements to CHINS Proceedings), which shall take effect on passage.

## **House Proposal of Amendment**

### **S. 44**

An act relating to creating flexibility in early college enrollment numbers.

The House proposes to the Senate to amend the bill as follows:

By striking out Sec. 2. (effective date) in its entirety and inserting in lieu thereof four new sections to be Secs. 2–5 to read as follows:

Sec. 2. 16 V.S.A. chapter 87, subchapter 8 is added to read:

Subchapter 8. Vermont Universal Children's Higher Education Savings Account Program

## § 2880. DEFINITIONS

As used in this subchapter:

(1) “Approved postsecondary education institution” means any institution of postsecondary education that is:

(A) certified by the State Board of Education as provided in section 176 or 176a of this title;

(B) accredited by an accrediting agency approved by the U.S. Secretary of Education pursuant to the Higher Education Act;

(C) a non-U.S. institution approved by the U.S. Secretary of Education as eligible for use of education loans made under Title IV of the Higher Education Act; or

(D) a non-U.S. institution designated by the Corporation as eligible for use of its grant awards.

(2) “Committee” means the Vermont Universal Children’s Higher Education Savings Account Program Fund Advisory Committee.

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Eligible child” means a minor who is Vermont resident at the time the Corporation deposits or allocates funds pursuant to this subchapter for his or her benefit.

(5) “Postsecondary education costs” means the qualified costs of tuition, fees, and other expenses for attendance at an institution of postsecondary education, as defined in the Internal Revenue Code of 1986, as amended, together with the regulations promulgated thereunder.

(6) “Program” means the Vermont Universal Children’s Higher Education Savings Account Program.

(7) “Program beneficiary” means an individual who is or who was at one time an eligible child for whom the Corporation deposited or allocated funds pursuant to this subchapter and who has not yet attained 29 years of age or, for national service program participants, the extended maturity date.

(8) “Program Fund” means the Vermont Universal Children’s Higher Education Savings Account Program Fund.

(9) “Vermont Higher Education Investment Plan” or “Investment Plan” means the plan created pursuant to subchapter 7 of this chapter.

(10) “Vermont resident” means an individual who is domiciled in Vermont as evidenced by the individual’s intent to maintain a principal dwelling place in Vermont indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. A minor is a

Vermont resident if his or her parent or legal guardian is a Vermont resident, unless a parent or legal guardian with sole legal and physical parental rights and responsibilities lives outside the State of Vermont.

§ 2880a. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM ESTABLISHED; POWERS AND DUTIES OF THE VERMONT STUDENT ASSISTANCE CORPORATION

(a) It is the policy of the State to expand educational opportunity for all children. Consistent with this policy, the Vermont Student Assistance Corporation shall partner with one or more foundations or other philanthropies to establish and fund the Vermont Universal Children's Higher Education Savings Account Program to expand educational opportunity and financial capability for Vermont children and their families.

(b) Pursuant to this subchapter, the Corporation shall establish and administer the Program, which shall include the Vermont Universal Children's Higher Education Savings Account Program Fund and financial education for Program beneficiaries and their families and legal guardians. The Corporation, in addition to its other powers and authority, shall have the power and authority to adopt rules, policies, and procedures, including those pertaining to residency in the State, to implement this subchapter in conformance with federal and State law.

(c) The Vermont Departments of Health and of Taxes and the Vermont Agencies of Education and of Human Services shall enter into agreements with the Corporation to enable the exchange of such information as may be necessary for the efficient administration of the Program.

(d) The Corporation's obligations under this subchapter are limited to funds deposited in the Program Fund specifically for the purpose of the Program.

(e) The Corporation shall annually on or before January 15 release a written report with a detailed description of the status and operation of the Program and management of accounts.

§ 2880b. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM FUND

(a) The Vermont Universal Children's Higher Education Savings Account Program Fund is established as a fund to be held, directed, and administered by the Corporation. The Corporation shall invest and reinvest, or cause to be invested and reinvested, funds in the Program Fund for the benefit of the Program.

(b) The following sources of funds shall be deposited into the Program Fund:

(1) any grants, gifts, and other funds intended for deposit into the Program Fund from any individual or private or public entity, provided that contributions may be limited in application to specified age cohorts of beneficiaries; and

(2) all interest, dividends, and other pecuniary gains from investment of funds in the Program Fund.

(c) Funds in the Program Fund shall be used solely to carry out the purposes and provisions of this subchapter, including payment by the Corporation of the administrative costs of the Program and the Program Fund and of the costs associated with providing financial education to benefit Program beneficiaries and their parents and legal guardians. Funds in the Program Fund may not be transferred or used by the Corporation or the State for any purposes other than the purposes of the Program.

#### § 2880c. INITIAL DEPOSITS TO THE PROGRAM FUND

(a) Each year, the Corporation shall deposit \$250.00 into the Program Fund for each eligible child born that year, beginning on or after January 1, 2016.

(b) In addition, if the eligible child has a family income of less than 250 percent of the federal poverty level at the time the deposit under subsection (a) of this section is made, the Corporation shall make an additional deposit into the Program Fund for the child that is equal to the deposit made under subsection (a).

(c) Notwithstanding subsections (a) and (b) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum deposits under this section, the Corporation shall prorate the deposits accordingly.

#### § 2880d. VERMONT HIGHER EDUCATION INVESTMENT PLAN ACCOUNTS; MATCHING ALLOCATIONS FOR FAMILIES WITH LIMITED INCOME

(a) The Corporation shall invite the parents or legal guardians of each Program beneficiary to open a Vermont Higher Education Investment Plan account on the beneficiary's behalf.

(b) The beneficiary, his or her parents or legal guardians, other individuals, and private and public entities may make additional deposits into a beneficiary's Investment Plan account.

(c) Annually, the Corporation shall deposit into the Program Fund a matching allocation of up to \$250.00 per eligible child on a dollar-to-dollar basis for contributions made that year to a single Investment Plan account established for the child under this section, provided that at the time of deposit, the eligible child has a family income of less than 250 percent of the federal poverty level.

(d) Notwithstanding subsection (c) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum allocation amounts under this subsection, the Corporation shall prorate the allocations accordingly.

#### § 2880e. WITHDRAWAL OF PROGRAM FUNDS

(a) Subject to the provisions of this section, the Investment Plan requirements under subchapter 7 of this chapter, and the rules, policies, and procedures adopted by the Corporation, a Program beneficiary shall be entitled to Program funds deposited or allocated by the Corporation for his or her benefit if:

(1) the beneficiary has attained 18 years of age or has enrolled full-time in an approved postsecondary education institution;

(2) the Corporation has sufficient proof that the beneficiary was an eligible child at the time the deposit or allocation was made;

(3) the funds are used for postsecondary education costs and made payable to an approved postsecondary education institution on behalf of the beneficiary; and

(4) the withdrawal is made prior to the beneficiary's attaining 29 years of age, provided that for a beneficiary who serves in a national service program, including in the U.S. Armed Forces, AmeriCorps, or the Peace Corps, each month of service shall increase the maturity date by one month.

(b) If a Program beneficiary does not use all of the funds deposited or allocated by the Corporation for his or her use prior to the maturity date, the beneficiary shall no longer be permitted to use these funds and the Corporation shall unallocate the unused funds from the beneficiary within the Program Fund.

(c) This section shall not apply to withdrawal of funds that are contributed to an Investment Plan account opened for the benefit of the account's beneficiary under subsection 2880d(a) and (b) of this title and that are not Program funds deposited or allocated by the Corporation.

§ 2880f. RIGHTS OF BENEFICIARIES AND THEIR FAMILIES

(a) A parent or legal guardian shall be allowed to opt out of the Program on behalf of his or her child.

(b) An individual otherwise eligible for any benefit program for elders, persons who are disabled, families, or children shall not be subject to any State resource limit based on funds deposited, allocated, or contributed on behalf of an eligible child or Program beneficiary to the Program Fund or an Investment Plan.

§ 2880g. FINANCIAL LITERACY PROGRAMS

State agencies and offices, including the Agencies of Education and of Human Services and the Office of the State Treasurer, in collaboration with existing statewide community partners and nonprofit partners that specialize in financial education delivery and have developed an available infrastructure to support financial education across multiple sectors, shall develop and support programs to encourage the financial literacy of Program beneficiaries and their families and legal guardians throughout the duration of the Program via mail, mass media, and in-person delivery methods.

§ 2880h. PROGRAM FUND ADVISORY COMMITTEE

(a) There is created a Vermont Universal Children's Higher Education Savings Account Program Fund Advisory Committee to identify and solicit public and private funds for the Program and to advise the Corporation on disbursement of funds.

(b) The Committee shall be composed of the following 11 members:

(1) the Governor or designee, ex officio;

(2) the President of the Corporation or designee, ex officio;

(3) two representatives of the Vermont philanthropy community, appointed by the Governor;

(4) two representatives of the Vermont business community, appointed by the Governor;

(5) two members from Vermont advocacy organizations representing individuals and families with limited income, appointed by the Governor; and

(6) three members selected by the Committee.

(c) Non-ex-officio members shall serve four-year terms, appointed and selected in such a manner that no more than three terms shall expire annually.

Sec. 3. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM; INITIAL MEETING

The President of the Corporation or designee shall call the first meeting of the Committee to occur on or before August 1, 2015. The Committee shall select three members pursuant to 16 V.S.A. § 2880h(b)(6), and a chair from among the Committee members, at the first meeting or as soon as possible thereafter.

Sec. 4. VERMONT STUDENT ASSISTANCE CORPORATION; ELIGIBILITY, RESIDENCY, AND RECIPROCITY REPORT

(a) On or before January 15, 2016, the Vermont Student Assistance Corporation shall report to the House and Senate Committees on Education with its findings on the following:

(1) whether the Program established in 16 V.S.A. chapter 87, subchapter 8 provides for Program eligibility in a manner that adequately and equitably serves the Program's purposes;

(2) whether the Corporation has encountered, or expects to encounter, any difficulties in administering the Program on account of State residency issues;

(3) whether the Program could partner with children's savings account programs in other New England states to develop a system or systems of program reciprocity; and

(4) any other recommendations for legislative action.

(b) The reporting requirement of this section may be satisfied by providing testimony to the Committees.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 shall take effect on passage and shall apply retroactively to enrollments beginning in the 2014–2015 academic year.

(b) Secs. 2–4 shall take effect on July 1, 2015.

(c) This section shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to creating flexibility in early college enrollment numbers and to creating the Vermont Universal Children's Higher Education Saving Account Program.

## House Proposal of Amendment

### S. 108

An act relating to repealing the sunset on provisions pertaining to patient choice at end of life.

The House proposes to the Senate to amend the bill as follows:

By adding two new sections to be Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 18 V.S.A. § 5293 is added to read:

#### § 5293. REPORTING REQUIREMENTS

(a) The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter, including identifying patients who filled prescriptions written pursuant to this chapter. Except as otherwise required by law, information regarding compliance shall be confidential and shall be exempt from public inspection and copying under the Public Records Act.

(b) Beginning in 2018, the Department of Health shall generate and make available to the public a biennial statistical report of the information collected pursuant to subsection (a) of this section, as long as releasing the information complies with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 3. 18 V.S.A. § 4284(b)(2) is amended to read:

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

\* \* \*

(G) The Commissioner of Health or the Commissioner's designee in order to identify patients who filled prescriptions written pursuant to chapter 113 of this title.

And by renumbering the remaining section (effective date) to be numerically correct.

## House Proposal of Amendment

### S. 139

An act relating to pharmacy benefit managers and hospital observation status.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Pharmacy Benefit Managers \* \* \*

Sec. 1. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

\* \* \*

(6) “Maximum allowable cost” means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 2. 18 V.S.A. § 9473 is amended to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO PHARMACIES

\* \* \*

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

\* \* \* Notice of Hospital Observation Status \* \* \*

Sec. 3. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

\* \* \*

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 4. 18 V.S.A. § 1911a is added to read:

1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.

(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not

provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature and date were not obtained, the hospital representative shall document the reason.

#### Sec. 4a. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH COMMERCIAL INSURANCE

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

\* \* \* Reports \* \* \*

#### Sec. 5. VERMONT HEALTH CARE INNOVATION PROJECT; UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

#### Sec. 6. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

\* \* \* Strengthening Affordability and Access to Health Care \* \* \*

#### Sec. 7. 33 V.S.A. § 1812(b) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: ~~77~~ 83 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: ~~73~~ 79 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

#### Sec. 8. COST-SHARING SUBSIDY; APPROPRIATION

(a) Increasing the cost-sharing subsidies available to Vermont residents will not only make it easier for people with incomes below 300 percent of the federal poverty level to access health care services, but it may encourage some residents without insurance to enroll for coverage if they know they will be able to afford to use it.

(b) The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for the Exchange cost-sharing subsidies for individuals at the actuarial levels in effect on January 1, 2015.

(c) The sum of \$2,000,000.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 to increase Exchange cost-sharing subsidies beginning on January 1, 2016 to provide coverage at an 83 percent actuarial value for individuals with incomes between 200 and 250 percent of the federal poverty level and at a 79 percent actuarial value for individuals with incomes between 250 and 300 percent of the federal poverty level.

\* \* \* Strengthening Primary Care \* \* \*

#### Sec. 9. INVESTING IN PRIMARY CARE SERVICES

The sum of \$7,000,000.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase reimbursement rates for primary care providers for services provided to Medicaid beneficiaries.

#### Sec. 10. BLUEPRINT FOR HEALTH INCREASES

(a) The sum of \$4,085,826.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase

payments to patient-centered medical homes and community health teams pursuant to 18 V.S.A. § 702.

(b) In its use of the funds appropriated in this section, the Blueprint for Health shall work collaboratively to begin including family-centered approaches and adverse childhood experience screenings consistent with the report entitled “Integrating ACE-Informed Practice into the Blueprint for Health.” Considerations should include prevention, early identification, and screening, as well as reducing the impact of adverse childhood experiences through trauma-informed treatment and suicide prevention initiatives.

#### Sec. 11. AREA HEALTH EDUCATION CENTERS

The sum of \$700,000.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

\* \* \* Investing in Structural Reform for Long-Term Savings \* \* \*

#### Sec. 12. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER; RATE-SETTING

(a) The sum of \$862,767.00 is appropriated to the Green Mountain Care Board in fiscal year 2016, of which \$184,636.00 comes from the General Fund, \$224,774.00 is in Global Commitment funds, \$393,357.00 comes from the Board’s bill-back authority pursuant to 18 V.S.A. § 9374(h), and \$60,000.00 comes from the Health IT-Fund.

(b) Of the funds appropriated pursuant to this section, the Board shall use:

(1) \$502,767.00 for positions and operating expenses related to the Board’s provider rate-setting authority, the all-payer model, and the Medicaid cost shift;

(2) \$300,000.00 for contracts and third-party services related to the all-payer model, provider rate-setting, and the Medicaid cost shift; and

(3) \$60,000.00 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

#### Sec. 13. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

\* \* \* Consumer Information, Assistance, and Representation \* \* \*

Sec. 14. OFFICE OF THE HEALTH CARE ADVOCATE;  
APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in the Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

Sec. 15. CONSUMER INFORMATION AND PRICE TRANSPARENCY

The Green Mountain Care Board shall evaluate potential models for providing consumers with information about the cost and quality of health care services available across the State, including a consideration of the models used in Maine, Massachusetts, and New Hampshire, as well as any platforms developed and implemented by health insurers doing business in this State. On or before October 1, 2015, the Board shall report its findings and a proposal for a robust Internet-based consumer health care information system to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

\* \* \* Universal Primary Care \* \* \*

Sec. 16. PURPOSE

The purpose of Secs. 16 through 20 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 17. [Deleted.]

Sec. 18. DEFINITION OF PRIMARY CARE

As used in Secs. 16 through 20 of this act, “primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 19. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Joint Fiscal Office, in consultation with the Green Mountain Care Board and the Secretary of Administration or designee, shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance an estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis required by this section. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the Board to ensure that confidential information provided to the Office is not further disclosed.

Sec. 20. APPROPRIATION

Up to \$200,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to be used for assistance in the calculation of the cost estimates required in Sec. 19 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received by the Office to carry out the estimates and analysis required by Sec. 19.

\* \* \* Green Mountain Care Board \* \* \*

Sec. 21. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

\* \* \*

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. Vermont Information Technology Leaders, Inc. shall be an interested party in the Board's review.

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review and approve the budget, consistent with available funds, and the core activities associated with public funding, of the Vermont Information Technology Leaders, Inc., which shall include establishing the interconnectivity of electronic medical records held by health care professionals, and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account the Vermont Information Technology Leaders' responsibilities in section 9352 of this title and shall be conducted according to a process established by the Board by rule pursuant to 3 V.S.A. chapter 25.

\* \* \*

Sec. 21a. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

\* \* \* Vermont Information Technology Leaders \* \* \*

Sec. 22. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more

than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine in Vermont;

(H) one representative of a health insurer licensed to do business in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;

(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for

this State. The After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

\* \* \*

\* \* \* Referral Registry \* \* \*

#### Sec. 23. REFERRAL REGISTRY

On or before October 1, 2015, the Department of Mental Health and the Division of Alcohol and Drug Abuse Programs in the Department of Health shall develop jointly a registry of mental health and addiction services providers in Vermont, organized by county. The registry shall be updated at least annually and shall be made available to primary care providers participating in the Blueprint for Health and to the public.

\* \* \* Ambulance Reimbursement \* \* \*

#### Sec. 24. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the Health Reform Oversight Committee.

\* \* \* Direct Enrollment for Individuals \* \* \*

Sec. 25. 33 V.S.A. § 1803(b)(4) is amended to read:

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified

individuals and qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

Sec. 26. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) ~~No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange~~ To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a ~~health insurer~~ registered carrier under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

\* \* \* Extension of Presuit Mediation \* \* \*

Sec. 27. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

#### § 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

#### § 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential

plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed upon the later of the following:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

#### § 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

\* \* \* Blueprint for Health; Reports \* \* \*

#### Sec. 28. BLUEPRINT FOR HEALTH; REPORTS

(a) The 2016 annual report of the Blueprint for Health shall present an analysis of the value-added benefits and return on investment to the Medicaid program of the new funds appropriated in the fiscal year 2016 budget, including the identification of any costs avoided that can be directly attributed to those funds, and the means of the analysis that was used to draw any such conclusions.

(b) The Blueprint for Health shall explore and report back to the General Assembly on or before January 15, 2016 on potential wellness incentives.

#### Sec. 28a. PREVENTABLE ILLNESSES RELATED TO OBESITY

While the General Assembly is adjourned during fiscal year 2016, the Health Reform Oversight Committee shall review existing data on expenditures from the treatment of preventable illnesses related to obesity, including costs borne by the private sector, and shall survey existing and proposed policy measures to reduce the incidence of obesity in Vermont.

\* \* \* Green Mountain Care Board; Payment Reform \* \* \*

Sec. 29. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.

\* \* \* Independent Analysis of Exchange Alternatives \* \* \*

Sec. 29a. INDEPENDENT ANALYSIS; JOINT FISCAL OFFICE

(a) The Joint Fiscal Office shall conduct a preliminary, independent risk analysis of the advantages and disadvantages, including the costs and the quantitative and qualitative benefits, of alternative options for the Vermont Health Benefit Exchange, including continuing the current State-based marketplace known as Vermont Health Connect, transitioning to a federally facilitated State-based marketplace, and other available options. The Chief of Health Care Reform shall provide the Joint Fiscal Office with regular updates on the Agency of Administration's analysis of alternative options. The Joint Fiscal Office may enter into contracts for assistance in performing some or all of the analysis and shall provide the results of the analysis to the Joint Fiscal Committee and the Health Reform Oversight Committee on or before September 15, 2015.

(b) The sum of \$85,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to conduct the analysis required by this section.

\* \* \* Exchange Reports \* \* \*

Sec. 29b. VERMONT HEALTH CONNECT REPORTS

The Chief of Health Care Reform shall provide monthly reports to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee regarding:

(1) the schedule, cost, and scope status of the Vermont Health Connect system's Release 1 and Release 2 development efforts, including whether any critical path items did not meet their milestone dates and the corrective actions being taken;

(2) an update on the status of current risks in Vermont Health Connect's implementation;

(3) an update on the actions taken to address the recommendations in the Auditor's report on Vermont Health Connect dated April 14, 2015 and any other audits of Vermont Health Connect; and

(4) an update on the preliminary analysis of alternatives to Vermont Health Connect.

Sec. 29c. INDEPENDENT REVIEW OF VERMONT HEALTH CONNECT

The Chief of Health Care Reform shall provide the Joint Fiscal Office with the materials provided by the Independent Verification and Validation (IVV) firms evaluating Vermont Health Connect. The reports shall be provided in a manner that protects security and confidentiality as required by any memoranda of understanding entered into by the Joint Fiscal Office and the Executive Branch. For the period between July 1, 2015 and January 1, 2016, the Joint Fiscal Office shall analyze the reports and shall provide information regarding Vermont Health Connect information technology systems at least once every two months to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee.

\* \* \* Alternatives to Vermont Health Connect \* \* \*

Sec. 29d. VERMONT HEALTH CONNECT OUTCOMES;  
ALTERNATIVES TO VERMONT HEALTH CONNECT

(a) The Agency of Administration shall explore all feasible alternatives to Vermont Health Connect.

(b) The General Assembly expects Vermont Health Connect to achieve the following milestones with respect to qualified health plans offered in the individual market:

(1) On or before May 31, 2015, the vendor under contract with the State to implement the Vermont Health Benefit Exchange shall deliver the information technology release providing the “back end” of the technology supporting changes in circumstances and changes in information to allow for a significant reduction, as described in subdivision (5) of this subsection, in the amount of time necessary for the State to process changes requested by individuals and families enrolled in qualified health plans.

(2) On or before May 31, 2015, the State shall complete a contract to ensure automated renewal functionality for qualified health plans offered to individuals and families that has been reviewed and agreed to by the State, by registered carriers offering qualified health plans, and by the chosen vendor. The contract shall be sent to the Centers for Medicare and Medicaid Services for its review by the same date.

(3) On or before August 1, 2015, Vermont Health Connect shall develop a contingency plan for renewing qualified health plans offered to individuals and families for calendar year 2016 and shall ensure that the registered carriers offering these qualified health plans agree to the process.

(4) On or before October 1, 2015, the vendor under contract with the State for automated renewal of qualified health plans offered to individuals and families shall deliver the information technology release providing for the automated renewal of those qualified health plans.

(5) On or before October 1, 2015, Vermont Health Connect customer service representatives shall begin processing new requests for changes in circumstances and for changes in information received in the first half of a month in time to be reflected on the next invoice and shall begin processing requests for changes received in the latter half of the month in time to be reflected on one of the next two invoices.

(6) On or before October 1, 2015, registered carriers that offer qualified health plans and wish to enroll individuals and families directly shall have completed implementation of any necessary information technology upgrades.

(c) If Vermont Health Connect fails to meet one or more of the milestones set forth in subsection (b) of this section, the Agency of Administration shall begin exploring with the U.S. Department of Health and Human Services a transition to a federally supported State-based marketplace (FSSBM). The Chief of Health Care Reform shall report on the status of the exploration at the next scheduled meetings of the Joint Fiscal Committee and the Health Reform Oversight Committee.

(d) The Joint Fiscal Committee may at any time direct the Chief of Health Care Reform to prepare an analysis and potential implementation plan

regarding a transition from Vermont Health Connect to a different model for Vermont's health benefit exchange, including an FSSBM, and to present information about such a transition, including:

(1) the outcome of King v. Burwell, Docket No. 14-114 (U.S. Supreme Court), relating to whether federal advance premium tax credits will be available to reduce the cost of health insurance provided through a federally facilitated exchange, and the likely impacts on Vermont individuals and families if the State moves to an FSSBM or to another exchange model;

(2) whether it is feasible to offer State premium and cost-sharing assistance to individuals and families purchasing qualified health plans through an FSSBM or through another exchange model, how such assistance could be implemented, whether federal financial participation would be available through the Medicaid program, and applicable cost implications;

(3) how the Department of Financial Regulation's and Green Mountain Care Board's regulatory authority over health insurers and qualified health plans would be affected, including the timing of health insurance rate and form review;

(4) any impacts on the State's other health care reform efforts, including the Blueprint for Health and payment reform initiatives;

(5) any available estimates of the costs attributable to a transition from a State-based exchange to an FSSBM or to another exchange model; and

(6) whether any new developments have occurred that affect the availability of additional alternatives that would be more beneficial to Vermonters by minimizing negative effects on individuals and families enrolling in qualified health plans, reducing the financial impacts of the transition to an alternative model, lessening the administrative burden of the transition on the registered carriers, and decreasing the potential impacts on the State's health insurance regulatory framework.

(e) On or before November 15, 2015, the Chief of Health Care Reform shall provide the Joint Fiscal Committee and Health Reform Oversight Committee with a recommendation regarding the future of Vermont's health benefit exchange, including a proposed timeline for 2016. The Chief's recommendation shall include an analysis of whether the recommended course of action would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework.

(1)(A) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition to an FSSBM, then on or before December 1, 2015, the Joint Fiscal Committee shall determine whether to concur with the recommendation. In determining whether to concur, the Joint Fiscal Committee shall consider whether the transition to an FSSBM would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework. The Joint Fiscal Committee shall also consider relevant input offered by legislative committees of jurisdiction.

(B) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition from a State-based exchange to an FSSBM and the Joint Fiscal Committee concurs with that recommendation, the Chief of Health Care Reform and the Commissioner of Vermont Health Access shall:

(i) prior to December 31, 2015, request that the U.S. Department of Health and Human Services begin the approval process with the Department of Vermont Health Access; and

(ii) on or before January 15, 2016, provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the recommended statutory changes necessary to align with operating an FSSBM if approved by the U.S. Department of Health and Human Services.

(2) If the Chief of Health Care Reform either does not recommend that Vermont transition to an FSSBM or the Joint Fiscal Committee does not concur with the Chief's recommendation to transition to an FSSBM, the Chief of Health Care Reform shall submit information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on or before January 15, 2016 regarding the advantages and disadvantages of alternative models and options for Vermont's health benefit exchange and the proposed statutory changes that would be necessary to accomplish them.

\* \* \* Cigarette and Tobacco Taxes \* \* \*

Sec. 30. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

\* \* \*

(d) The tax imposed under this section shall be at the rate of ~~137.5~~ 142.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30a. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.29~~ \$2.38 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.29~~ \$2.38 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.75~~ \$2.85 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30b. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of

the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler; or a retailer who at 12:01 a.m. on July 1, ~~2014~~ 2015, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, and on which cigarette stamps have been affixed before July 1, ~~2014~~ 2015. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2014~~ 2015, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.10 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 30c. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

\* \* \*

(d) The tax imposed under this section shall be at the rate of ~~142.5~~ 154 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30d. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.38~~ \$2.57 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.38~~ \$2.57 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.85~~ \$3.08 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30e. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2015~~ 2016, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, and on which cigarette stamps have been affixed before July 1, ~~2015~~ 2016. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2015~~ 2016, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.23 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or

roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

\* \* \* Meals and Room Tax \* \* \*

Sec. 30f. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

\* \* \*

(10) "Taxable meal" means:

(A) Any food or beverage furnished within the State by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.

(B) Where furnished by other than a restaurant, any nonprepackaged food or beverage furnished within the State and for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. Fruits, vegetables, candy, flour, nuts, coffee beans, and similar unprepared grocery items sold self-serve for take-out from bulk containers are not subject to tax under this subdivision.

(C) Regardless where sold and whether or not prepackaged:

- (i) sandwiches of any kind except frozen;
- (ii) food or beverage furnished from a salad bar;
- (iii) heated food or beverage;
- (iv) food or beverage sold through a vending machine.

\* \* \*

(19) "Vending machine" means a machine operated by coin, currency, credit card, slug, token, coupon, or similar device that dispenses food or beverages.

Sec. 30g. 32 V.S.A. § 9271 is amended to read:

§ 9271. LICENSES REQUIRED

Each operator prior to commencing business shall register with the Commissioner each place of business within the ~~state~~ State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the

Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each such place in such form as he or she may determine, attesting that such registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner, if the business is sold or transferred or if the registrant ceases to do business at the place named.

\* \* \* Sales Tax \* \* \*

Sec. 30h. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages ~~or~~, tobacco, soft drinks, or candy.

\* \* \*

(53) “Soft drink” means nonalcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

(54) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.

\* \* \* Nonresidential Education Property Tax Rate \* \* \*

Sec. 30i. FISCAL YEAR 2016 NONRESIDENTIAL PROPERTY TAX RATE

Notwithstanding any other provision of law, for fiscal year 2016 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(1) shall be reduced from the rate of \$1.59 to \$1.515.

Sec. 30j. ELECTRONIC CIGARETTES; REVENUE

Notwithstanding the provisions of 32 V.S.A. § 7823 and 33 V.S.A. § 1910d, the Department of Finance and Management shall determine the amount to be raised by the taxation of electronic cigarettes by this act in fiscal year 2016 and shall reserve that amount in the Tobacco Trust Fund established pursuant to 18 V.S.A. § 9502.

\* \* \* Electronic Cigarettes \* \* \*

Sec. 31a. 7 V.S.A. § 1003(d) is amended to read:

~~(d)(1) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter in an area accessible only to sales personnel; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

~~(1)(A)~~ A a display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time;

~~(2)(B)~~ Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

~~(3)(C)~~ Cigars cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Sec. 31b. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products and tobacco substitutes is prohibited in any workplace.

(b)(1) As used in this subchapter, “workplace” means an enclosed structure where employees perform services for an employer, including restaurants, bars, and other establishments in which food or drinks, or both, are served. In the case of an employer who assigns employees to departments, divisions, or similar organizational units, “workplace” means the enclosed portion of a structure to which the employee is assigned.

(2) Except for schools, workplace does not include areas commonly open to the public or any portion of a structure that also serves as the employee’s or employer’s personal residence.

(3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring.

(4) For lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, workplace includes the sleeping quarters and adjoining rooms rented to guests.

(5) The prohibition on using tobacco substitutes in a workplace shall not apply to a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont ~~veterans' home~~ Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31c. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

\* \* \*

(5) "Tobacco substitutes" shall have the same meaning as in 7 V.S.A. § 1001.

Sec. 31d. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

(d) Nothing in this chapter shall be construed to prohibit the use of tobacco substitutes in a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

Sec. 31e. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products and use of tobacco substitutes do not apply to areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 31f. 18 V.S.A. § 1745 is amended to read:

§ 1745. ENFORCEMENT

A proprietor, or the agent or employee of a proprietor, who observes a person in possession of lighted tobacco products or using tobacco substitutes in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 31g. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 31h. 32 V.S.A. § 7702(15) is amended to read:

(15) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8); but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

\* \* \* Repeal \* \* \*

#### Sec. 32. REPEAL

12 V.S.A. chapter 215, subchapter 2 (presuit mediation) is repealed on July 1, 2018.

\* \* \* Effective Dates \* \* \*

#### Sec. 33. EFFECTIVE DATES

(a) Secs. 1 and 2 (pharmacy benefit managers), 4a (report on observation status), 5 and 6 (reports), 15 (consumer information), 21 (Green Mountain Care Board duties), 21a (impact of rate-setting authority), 22 (VITL), 23 (referral registry), 24 (ambulance reimbursement), 27 (extension of presuit mediation), 28 (Blueprint for Health; reports), 28a (obesity data review), 29 (Green Mountain Care Board; payment reform), 29a–29d (Exchange alternatives and reports), 32 (repeal), and this section shall take effect on passage.

(b) Secs. 7 and 8 (Exchange cost-sharing subsidies), 9 (primary care provider increases), 10 (Blueprint increases), 11 (AHEC appropriation), 12 (Green Mountain Care Board appropriation), 13 (Green Mountain Care Board positions), 14 (Health Care Advocate), and 16–20 (primary care study) shall take effect on July 1, 2015.

(c) Secs. 25 and 26 (direct enrollment in Exchange plans) shall take effect on July 1, 2015 and shall apply beginning with the 2016 open enrollment period.

(d) Secs. 3 and 4 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Secs. 30 (cigarette tax), 30a (tobacco products tax), 30b (floor stock tax), 30f (meals and rooms tax definitions), 30g (meals and rooms tax licenses), 30h (sales tax definitions), 30i (property tax), 30j (electronic cigarette revenue), 31a–31g (electronic cigarettes), and 31h (tax on electronic cigarettes) shall take effect July 1, 2015. The Tax Department shall provide to vendors subject to the sales tax under this act outreach, education, and ongoing support to implement the tax effectively.

(f) Secs. 30c (cigarette tax), 30d (tobacco products tax), and 30e (floor stock tax) shall take effect July 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to health care.

## NOTICE CALENDAR

### Second Reading

### Favorable with Proposal of Amendment

#### H. 35.

An act relating to improving the quality of State waters.

**Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources & Energy.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings and Purpose \* \* \*

#### Sec. 1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds that:

(1) Within the borders of Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Vermont's surface waters are vital assets that provide the citizens of the State with clean water, recreation, and economic opportunity.

(3) The federal Clean Water Act and the Vermont Water Quality Standards require that waters in the State shall not be degraded.

(4) To prevent degradation of waters and to preserve the uses, benefits, and values of the lakes, rivers, and streams of Vermont, the Vermont Water Quality Standards provide that it is the policy of the State to prevent, abate, or control all activities harmful to water.

(5) Despite the State and federal mandates to maintain and prevent degradation of State waters, multiple lakes, rivers, and streams in all regions of the State are impaired, at risk of impairment, or subject to water quality stressors, as indicated by the fact that:

(A) there are 81 waters or segments of waters in the State that are impaired and require a total maximum daily load (TMDL) plan;

(B) there are 114 waters or segments of waters in the State that are impaired and that have been issued a TMDL;

(C) there are at least 115 waters or water segments in the State that are stressed, meaning that there is one or more factor or influence that prohibits the water from maintaining a higher quality; and

(D) there are at least 56 waters in the State that are altered due to aquatic nuisance species, meaning that one or more of the designated uses of the water is prohibited due to the presence of aquatic nuisance species.

(6) Impairments and other alterations of water can significantly limit how a water is used and whether it can maintained for traditional uses. For example:

(A) aquatic life is only fully supported in 59 percent of the State's inland lakes; and

(B) swimming is only fully supported on 76 percent of the State's inland lakes.

(7) Without State action to improve the quality of State waters and prevent further degradation of the quality of existing waters, the State of Vermont will be at risk of losing the valuable, if not necessary functions and uses that the State's waters provide;

(8) Sufficiently addressing, improving, and forestalling degradation of water quality in the State in a sustainable and effective manner will be expensive and the burden of the expense will be felt by all citizens of the State, but without action the economic, cultural, and environmental losses to the State will be immeasurable;

(9) To protect the waters of the State and preserve the quality of life of the citizens of Vermont, the State of Vermont should:

(A) fully implement the antidegradation implementation policy in the Vermont Water Quality Standards;

(B) enhance, implement, and enforce regulatory requirements for water quality, and

(C) sufficiently and sustainably finance all water quality programs within the State.

(b) Purpose. It is the purpose of this act to:

(1) manage and regulate the waters of the State so that water quality is improved and not degraded;

(2) manage and plan for the use of State waters and development in proximity to State waters in manner that minimizes damage from and allows for rapid recovery from flooding events;

(3) authorize and prioritize proactive measures designed to implement and meet the impending total maximum daily load (TMDL) plan for Lake Champlain, meet impending TMDL plans for other State waters, and improve water quality across the State;

(4) identify and prioritize areas in the State where there is the greatest need to act in order to protect, maintain, or improve water quality;

(5) engage all municipalities, agricultural operations, businesses, and other interested parties as part of the State's efforts to improve the quality of the waters of the State; and

(6) provide mechanisms, staffing, and financing necessary for State waters to achieve and maintain compliance with the Vermont water quality standards.

\* \* \* Agricultural Water Quality;  
Definitions \* \* \*

Sec. 2. 6 V.S.A. § 4802 is amended to read:

§ 4802. ~~DEFINITION~~ DEFINITIONS

~~For purposes of As used in this chapter, the word “secretary,” when used by itself, means the secretary of agriculture, food and markets;~~

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farming” shall have the same meaning as used in 10 V.S.A. § 6001(22).

(3) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(4) “Manure” means livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, or soil.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

(6) “Top of bank” means the point along the bank of a stream where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during an annual flood event. Annual flood event shall be determined according to the Agency of Natural Resources’ Flood Hazard Area and River Corridor Protection Procedure.

(7) “Waste” or “agricultural waste” means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milkhouse waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

(8) “Water” shall have the same meaning as used in 10 V.S.A. § 1251(13).

\* \* \* Agricultural Water Quality; Small Farm Certification \* \* \*

Sec. 3. 6 V.S.A. subchapter 5a is added to read:

Subchapter 5a. Small Farm Certification

§ 4871. SMALL FARM CERTIFICATION

(a) Small farm definition. As used in this section, “small farm” means a parcel or parcels of land:

(1) on which 10 or more acres are used for farming;

(2) that houses no more than the number of animals specified under section 4857 of this title; and

(3)(A) that houses:

(i) 25 or more cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, goats, or horses;

(ii) 2,500 or more turkeys;

(iii) 1,250 or more laying hens or broilers with a liquid manure handling system;

(iv) 3,500 or more laying hens without a liquid manure handling system;

(v) 4,750 or more chickens other than laying hens without a liquid manure handling system;

(vi) 200 or more ducks with a liquid manure handling system;

(vii) 1,500 or more ducks without a liquid manure handling system; or

(B) that is used for the preparation, tilling fertilization, planting, protection, irrigation, and harvesting of crops for sale.

(b) Required small farm certification. A person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

(c) Certification due to water quality threat. The Secretary may require any person who owns or operates a farm to submit a small farm certification under this section if the person is not required to obtain a permit or submit a certification under this chapter and the Secretary determines that the farm poses a threat of discharge to a water of the State or presents a threat of contamination to groundwater. The Secretary may waive a small farm certification required under this subsection upon a determination that the farm no longer poses a threat of discharge to a water of the State or no longer presents a threat of contamination to groundwater.

(d) Rulemaking; small farm certification. On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for a small farm certification of compliance with the required agricultural practices. The rules required by this subsection shall be adopted as part of the required agricultural practices under section 4810 of this title.

(e) Small farm inspection. The Secretary may inspect a small farm in the State at any time, but no less frequently than once every five years, for the purposes of assessing compliance by the small farm with the required agricultural practices and determining consistency with a certification of compliance submitted by the person who owns or operates the small farm. The Secretary may prioritize inspections of small farms in the State based on identified water quality issues posed by a small farm.

(f) Notice of change of ownership or change of lease. A person who owns or leases a small farm shall notify the Secretary of a change of ownership or change of lessee of a small farm within 30 days of the change. The notification shall include the certification of small farm compliance required under subsection (a) of this section.

(g)(1) Identification; ranking of water quality needs. During an inspection of a small farm under this section, the Secretary shall identify areas where the farm could benefit from capital, structural, or technical assistance in order to improve or come into compliance with the required agricultural practices and any applicable State water quality permit or certification required under this chapter.

(2) Notwithstanding the priority system established under section 4823 of this title, the Secretary annually shall establish a priority ranking system for small farms according to the water quality benefit associated with the capital, structural, or technical improvements identified as needed by the Secretary during an inspection of the farm.

(3) Notwithstanding the priority system established by subdivision (2) of this subsection, the Secretary may provide financial assistance to a small farm at any time, regardless of the priority ranking system, if the Secretary determines that the farm needs assistance to address a water quality issue that requires immediate abatement.

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Sec. 4. 6 V.S.A. § 4810a is added to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before July 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) Prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) In no case shall manure stacking or piling sites, fertilizer storage, or other nutrient storage be located within 200 feet of a private well or within 200 feet of a water of the State.

(3) Require the construction and management of barnyards, waste management systems, animal holding areas, and production areas in a manner to prevent runoff of waste to a surface water, to groundwater, or across property boundaries.

(4) Establish standards for nutrient management on farms, including:

(A) required nutrient management planning on all farms that manage agricultural wastes; and

(B) recommended practices for improving and maintaining soil quality and healthy soils in order to increase the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent agricultural stormwater runoff.

(5) Require cropland on the farm to be cultivated in a manner that results in an average soil loss of less than or equal to the soil loss tolerance for the prevalent soil, known as 1T, as calculated through application of the Revised Universal Soil Loss Equation, or through the application of similarly accepted models.

(6)(A) Require a farm to comply with standards established by the Secretary for maintaining a vegetative buffer zone of perennial vegetation between annual croplands and the top of the bank of an adjoining water of the State. At a minimum the vegetative buffer standards established by the Secretary shall prohibit the application of manure on the farm within 25 feet of the top of the bank of an adjoining water of the State or within 10 feet of a ditch that is not a surface water under State law and that is not a water of the United States under federal law.

(B) Establish standards for site-specific vegetative buffers that adequately address water quality needs based on consideration of soil type, slope, crop type, proximity to water, and other relevant factors.

(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk.

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

(9) Establish standards for the exclusion of livestock from the waters of the State to prevent erosion and adverse water quality impacts.

(10) Establish standards for soil conservation practices such as cover cropping.

(11) Allow for alternative techniques or practices, approved by the Secretary, for compliance by an owner or operator of a farm when the owner or operator cannot comply with the requirements of the required agricultural practices due to site-specific conditions. Approved alternative techniques or practices shall meet State requirements to reduce adverse impacts to water quality.

(b) On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

#### Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE DRAINAGE

(a) The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources, after consultation with the U.S. Department of Agriculture's Natural Resource Conservation Service, shall submit a joint report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the status of current, scientific research relating to the environmental management of subsurface agriculture tile drainage and how subsurface agriculture tile drainage contributes to nutrient loading of surface waters. The report shall include a recommendation from the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources regarding how best to manage subsurface agriculture tile drainage in the State in order to mitigate and prevent the contribution of tile drainage to waters of the State.

(b) On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit an interim report that summarizes the progress of the Secretaries in preparing the report required by this section. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit the final report required by this section on or before January 15, 2017.

\* \* \* Agricultural Water Quality; Permit Fees \* \* \*

Sec. 6. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

\* \* \*

(h) The Secretary may inspect a farm permitted under this section at any time, but no less frequently than once per year.

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 7. 6 V.S.A. § 4858 is amended to read:

§ 4858. ~~ANIMAL WASTE PERMITS~~ MEDIUM FARM OPERATION PERMITS

(a) No person shall operate a medium farm without authorization from the ~~secretary~~ Secretary pursuant to this section. Under exceptional conditions, specified in subsection ~~(e)~~(d) of this section, authorization from the ~~secretary~~ Secretary may be required to operate a small farm.

(b) Rules; general and individual permits. The ~~secretary~~ Secretary shall establish by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, requirements for a “general permit” and “individual permit” to ~~ensure~~ assure that medium and small farms generating animal waste comply with the water quality standards of the ~~state~~ State.

\* \* \*

(2) The rules adopted under this section shall also address permit administration, public notice and hearing, permit enforcement, permit transition, revocation, and appeals consistent with provisions of sections 4859, ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

(3) Each general permit issued pursuant to this section shall have a term of no more than five years. Prior to the expiration of each general permit, the ~~secretary~~ Secretary shall review the terms and conditions of the general permit and may issue subsequent general permits with the same or different conditions as necessary to carry out the purposes of this subchapter. Each general permit shall include provisions that require public notice of the fact that a medium farm has sought coverage under a general permit adopted pursuant to this section. Each general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive coverage under the general permit. The Secretary may inspect each farm seeking coverage under the general permit at any time, but no less frequently than once every three years.

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with ~~accepted~~ required agricultural practices adopted under this chapter. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of

Agriculture, Food and Markets. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title.

\* \* \*

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 8. 6 V.S.A. § 324 is amended to read:

#### § 324. REGISTRATION AND FEES

(a) No person shall manufacture a commercial feed in this State unless that person has first filed with the Vermont Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer;
- (2) the manufacturer's place of business;
- (3) the location of each manufacturing facility; and
- (4) any other information which the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees collected, \$85.00 of each collected fee, along with any surcharges collected

under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(c) No person shall distribute in this State any feed required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

Sec. 9. 6 V.S.A. § 328 is amended to read:

#### § 328. TONNAGE REPORTING

(a) Every person who registers a commercial feed pursuant to the provisions of this chapter shall report to the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets annually the total amount of combined feed which is distributed within the ~~state~~ State and which is intended for use within the ~~state~~ State. The report shall be made on forms and in a manner to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years ~~1986~~ 2016 and ~~1987~~ 2017.

(b) This reporting requirement shall not apply to pet foods, within the meaning of subdivisions 323(16) and (19) of this title, and shall not apply to feeds intended for use outside ~~of~~ the ~~state~~ State.

Sec. 10. 6 V.S.A. § 366 is amended to read:

#### § 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this ~~state~~ State. Each report shall be accompanied with

payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state. [Repealed.]~~

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by ~~section~~ subsection 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$15.00 per ton for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing fertilizer shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 11. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison which is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually; provided, that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter, when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the economic poison.

(3) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use.

(4) If requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic poison was registered or last ~~re-registered~~ reregistered.

(b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each product registered, and \$110.00 of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The annual registration year shall be from December 1 to November 30 of the following year.

\* \* \*

\* \* \* Agricultural Water Quality; Required Agricultural Practices; Best  
Management Practices \* \* \*

Sec. 12. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, and shall implement and enforce agricultural land use practices in order to ~~reduce the amount of agricultural pollutants entering the waters of the state~~ satisfy the requirements of 33 U.S.C. § 1329 that the State identify and implement best management practices to control nonpoint sources of agricultural waste to waters of the State. These agricultural land use practices shall be created in two categories, pursuant to ~~subdivisions (1) and (2) of this subsection~~ subsections (b) and (c) of this section.

~~(1)(b) Required Agricultural Practices. "Accepted Agricultural Practices"~~ (b) Required Agricultural Practices (RAPs) shall be management standards to be followed in conducting agricultural activities by all persons engaged in farming in this state State. These standards shall address activities which have a potential for causing agricultural pollutants to enter the groundwater and waters of the ~~state~~ State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. ~~The AAPs~~ RAPs shall include, as well as promote and encourage, practices for farmers in preventing agricultural pollutants from entering the groundwater and waters of the ~~state~~ State when engaged in, ~~but not limited to,~~ animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming, ~~as defined in 10 V.S.A. § 6001,~~ who ~~follow~~ are in compliance with these practices shall be presumed ~~to be in compliance with water quality standards~~ to not have a discharge of agricultural pollutants to waters of the State. ~~AAPs~~ RAPs shall be designed to protect water quality and shall be practical and ~~cost-effective~~ cost-effective to implement, as determined by the Secretary. Where the Secretary determines, after inspection of a farm, that a person engaged in farming is complying with the RAPs but there still exists the potential for agricultural pollutants to enter the waters of the State, the Secretary shall require the person to implement additional, site-specific on-farm conservation practices designed to prevent agricultural pollutants from entering the waters of the State. When requiring implementation of a conservation practice under this subsection, the Secretary shall inform the person engaged in farming of the resources available to assist the person in implementing the conservation practice and complying with the

requirements of this chapter. The AAPs RAPs for groundwater shall include a process under which the agency Agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner. A farmer may petition the Secretary to reduce the size of a perennial buffer or change the perennial buffer type based on site-specific conditions.

(2)(c) Best Management Practices. “Best Management Practices” (BMPs) may be required by the secretary on a case by case basis. Before requiring BMPs, the secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs. Best management practices (BMPs) are site-specific on-farm conservation practices implemented in order to address the potential for agricultural pollutants to enter the waters of the State. The Secretary may require any person engaged in farming to implement a BMP. When requiring implementation of a BMP, the Secretary shall inform a farmer of financial resources available from State or federal sources, private foundations, public charities, or other sources, including funding from the Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in implementing BMPs and complying with the requirements of this chapter. BMPs shall be practical and cost effective to implement, as determined by the Secretary, and shall be designed to achieve compliance with the requirements of this chapter. The Secretary may require soil monitoring or innovative manure management as a BMP under this subsection. Soil monitoring or innovative manure management implemented as a BMP shall be eligible for State assistance under section 2822 of this title. If a perennial buffer of trees or other woody vegetation is required as a BMP, the Secretary shall pay the farmer for a first priority easement on the land on which the buffer is located.

(b)(e) Cooperation and coordination. The secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets shall coordinate with the secretary of natural resources Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. The secretary of agriculture, food and markets On or before July 1, 2016, the Secretary of Agriculture, Food and Markets and the secretary of natural resources Secretary of Natural Resources shall develop a revise the memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Public Law 92-500. The memorandum of understanding shall describe how the agencies will implement the antidegradation implementation policy, including how the agencies will apply the antidegradation implementation

policy to new sources of agricultural non-point source pollutants. The secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets and the secretary of the agency of natural resources Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the state State agricultural water quality requirements for large, medium, and small farms under this chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets and the secretary of natural resources Secretary of Natural Resources shall be consistent with the secretary's Secretary's duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Public Law 92-500. The secretary of natural resources Secretary of Natural Resources shall be the state State lead person in applying for federal funds under Public Law 92-500, but shall consult with the secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions by the secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of 10 V.S.A. chapter 47 of Title 10 and the federal Clean Water Act as amended. In addition, the secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets shall coordinate with the secretary of natural resources Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm. On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall each develop three separate measures of the performance of the agencies under the memorandum of understanding required by this subsection. Beginning on January 15, 2017, and annually thereafter, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit separate reports to the Senate Committee on

Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources regarding the success of each agency in meeting the performance measures for the memorandum of understanding.

Sec. 13. LEGISLATIVE COUNCIL STATUTORY REVISION  
AUTHORITY; REQUIRED AGRICULTURAL PRACTICES

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the cumulative supplements of the Vermont Statutes Annotated to change the terms “accepted agricultural practices” to “required agricultural practices” and “AAPs” to “RAPs” where appropriate. These changes shall also be made when new legislation is proposed or when there is a republication of the Vermont Statutes Annotated.

Sec. 14. 6 V.S.A. § 4813 is amended to read:

§ 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~  
RESOURCES BOARD ENVIRONMENTAL DIVISION

(a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall cooperate with the ~~secretary of natural resources~~ Secretary of Natural Resources in the basin planning process with regard to the agricultural non-point source waste component of each basin plan. Any person with an interest in the agricultural non-point source component of the basin planning process may petition the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to require, and the ~~secretary~~ Secretary may require, best management practices in the individual basin beyond ~~accepted~~ required agricultural practices adopted by rule, in order to achieve compliance with the water quality goals in 10 V.S.A. § 1250 and any duly adopted basin plan. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall hold a public hearing within 60 days and shall issue a timely written decision that sets forth the facts and reasons supporting the decision.

(b) Any person engaged in farming that has been required by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to implement best management practices or any person who has petitioned the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under subsection (a) of this section may appeal the ~~secretary of agriculture, food and market's~~ Secretary of Agriculture, Food and Markets' decision to the ~~environmental division~~ Environmental Division de novo.

(c) ~~Before requiring best management practices under this section, the secretary of agriculture, food and markets or the board shall determine that~~

~~sufficient financial assistance is available to assist farmers in achieving compliance with applicable best management practices~~ When requiring implementation of a best management practice, the Secretary shall inform a farmer of the resources available to assist the farmer in implementing the best management practice and complying with the requirements of this chapter.

\* \* \* Agricultural Water Quality; Training \* \* \*

Sec. 15. 6 V.S.A. chapter 215, subchapter 8 is added to read:

Subchapter 8. Agricultural Water Quality Training

§ 4981. AGRICULTURAL WATER QUALITY TRAINING

(a) On or before July 1, 2016, as part of the revisions of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for training classes or programs for owners or operators of small farms, medium farms, or large farms certified or permitted under this chapter regarding:

(1) the prevention of discharges, as that term is defined in 10 V.S.A. § 1251(3); and

(2) the mitigation and management of stormwater runoff, as that term is defined in 10 V.S.A. § 1264, from farms.

(b) Any training required under this section shall address:

(1) the existing statutory and regulatory requirements for operation of a large, medium, or small farm in the State;

(2) the management practices and technical and financial resources available to assist in compliance with statutory or regulatory agricultural requirements;

(3) the land application of manure or nutrients, methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State; and

(4) standards required for nutrient management, including nutrient management planning.

(c) The Secretary shall include the training required by this section as a condition of a large farm permit, medium farm permit, or small farm certification required under this chapter. The Secretary may phase in training requirements under this section based on farm size, permit or certification category, or available staffing. On or before January 1, 2017, the Secretary shall establish a schedule by which all owners or operators of small farms,

medium farms, or large farms shall complete the training required by this section.

(d) The Secretary may approve or authorize the training required by this section to be conducted by other entities, including the University of Vermont Extension Service and the natural resources conservation districts.

(e) The Secretary shall not charge the owner or operator of a large, medium, or small farm for the training required by this section. The Secretary shall pay for the training required under this section from funds available to the Agency of Agriculture, Food and Markets for water quality initiatives.

\* \* \* Agricultural Water Quality;  
Certification of Custom Applicators \* \* \*

Sec. 16. 6 V.S.A. chapter 215, subchapter 9 is added to read:

Subchapter 9. Certification of Custom Applicators of Manure or Nutrients

§ 4987. DEFINITIONS

As used in this subchapter, “custom applicator” means a person who is engaged in the business of applying manure or nutrients to land and who charges or collects other consideration for the service. Custom applicator shall include full-time employees of a person engaged in the business of applying manure or nutrients to land, when the employees apply manure or nutrients to land.

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) On or before July 1, 2016, as part of the revision of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State.

(b) A custom applicator shall not apply manure or nutrients unless certified by the Secretary of Agriculture, Food and Markets.

(c) A custom applicator certified under this section shall train seasonal employees in methods or techniques to minimize runoff to surface waters and to identify weather or soil conditions that increase the risk of runoff. A custom

applicator that trains a seasonal employee under this subsection shall be liable for damages done and liabilities incurred by a seasonal employee who improperly applies manure or nutrients.

(d) The requirements of this section shall not apply to an owner or operator of a farm applying manure or nutrients to a field that he or she owns or controls, provided that the owner or operator has completed the agricultural water quality training required under section 4981 of this title.

\* \* \* Agricultural Water Quality; Enforcement; Corrective Actions \* \* \*

Sec. 17. 6 V.S.A. chapter 215, subchapter 10 is added to read:

#### Subchapter 10. Enforcement

##### § 4991. PURPOSE

The purpose of this subchapter is to provide the Secretary of Agriculture, Food and Markets with the necessary authority to enforce the agricultural water quality requirements of this chapter. When the Secretary of Agriculture, Food and Markets determines that a person subject to the requirements of the chapter is violating a requirement of this chapter, the Secretary shall respond to and require discontinuance of the violation. The Secretary may respond to a violation of the requirements of this chapter by:

- (1) issuing a corrective action order under section 4992 of this title;
- (2) issuing a cease and desist order under section 4993 of this title;
- (3) issuing an emergency order under section 4993 of this title;
- (4) revoking or conditioning coverage under a permit or certification under section 4994 of this title;
- (5) bringing a civil enforcement action under section 4995 of this title;
- (6) referring the violation to the Secretary of Natural Resources for enforcement under 10 V.S.A. chapter 201; or
- (7) pursuing other action, such as consulting with a farmer, within the authority of the Secretary to assure discontinuance of the violation and remediation of any harm caused by the violation.

##### § 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

(a) When the Secretary of Agriculture, Food and Markets receives a complaint and determines that a farmer is in violation of the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary shall notify the farmer of the complaint,

including the alleged violation. The Secretary shall not be required to identify the source of the complaint.

(b) When the Secretary of Agriculture, Food and Markets determines that a person is violating the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this subsection shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable statute, rule, or permit condition violated;

(4) the required corrective actions that the person shall take to correct the violation; and

(5) a summary of federal and State assistance programs that may be utilized by the person to assist in correcting the violation.

(c) A person issued a warning under this section shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation.

(d) If a person who receives a warning under this subsection fails to respond in a timely manner to the written warning or to take corrective action, the Secretary may act pursuant to section 4993 or section 4995 of this section in order to protect water quality.

#### § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST ORDERS; EMERGENCY ORDERS

(a) Notwithstanding the requirements of section 4992 of this title, the Secretary at any time may pursue one or more of the following enforcement actions:

(1) Issue a cease and desist order in accordance with the requirements of subsection (b) of this section to a person the Secretary believes to be in violation of the requirements of this chapter.

(2) Issue emergency administrative orders to protect water quality when an alleged violation, activity, or farm practice:

(A) presents an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare;

(B) is likely to result in an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare; or

(C) requires a permit or amendment to a permit issued under this chapter and a farm owner or operator has commenced an activity or is continuing an activity without a permit or permit amendment.

(3) Institute appropriate proceedings on behalf of the Agency of Agriculture, Food and Markets to enforce the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter.

(4) Order mandatory corrective actions, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from a farm or production area when the volume of waste produced by livestock on the farm exceeds the infrastructure capacity of the farm or the production area to manage the waste or waste leachate and prevent runoff or leaching of wastes to waters of the State or groundwater, as required by this chapter.

(5) Seek administrative or civil penalties in accordance with the requirements of section 15, 16, 17, or 4995 of this title. Notwithstanding the requirements of section 15 of this title to the contrary, the maximum administrative penalty issued by the Secretary under this section shall not exceed \$5,000.00 for each violation, and the maximum amount of any administrative penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.

(b) A person may request that the Secretary hold a hearing on a cease and desist order or an emergency order issued under this section within five days of receipt of the order. Upon receipt of a request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order or emergency order issued under this section shall not stay the order.

#### § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

The Secretary may, after due notice and hearing, revoke or condition coverage under a general permit, an individual permit, a small farm certification, or other permit or certification issued under this chapter or rules adopted under this chapter when the person subject to the permit or certification fails to comply with a requirement of this chapter or any term, provision, or requirements of a permit or certification required by this chapter. The Secretary may also seek enforcement remedies and penalties under this subchapter against any person who fails to comply with any term, provision, or requirement of a permit or certification required by this chapter or who violates

the terms or conditions of coverage under any general permit, any individual permit, or any certification issued under this chapter.

#### § 4995. CIVIL ENFORCEMENT

(a) The Secretary may bring an action in the Civil Division of the Superior Court to enforce the requirements of this chapter, or rules adopted under this chapter, or any permit or certification issued under this chapter, to assure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the Attorney General in the name of the State.

(b) The Court may grant temporary and permanent injunctive relief, and may:

(1) Enjoin future activities.

(2) Order corrective actions to be taken to mitigate or curtail any violation and to protect human health or the environment, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from the farm or production area when the volume of wastes produced by livestock exceeds the infrastructure capacity of the farm or its production area to manage the waste or waste leachate to prevent runoff or leaching of wastes to waters of the State or groundwater as required by the standards in this chapter.

(3) Order the design, construction, installation, operation, or maintenance of facilities designed to mitigate or prevent a violation of this chapter or to protect human health or the environment or designed to assure compliance.

(4) Fix and order compensation for any public or private property destroyed or damaged.

(5) Revoke coverage under any permit or certification issued under this chapter.

(6) Order reimbursement from any person who caused governmental expenditures for the investigation, abatement, mitigation, or removal of a hazard to human health or the environment.

(7) Levy a civil penalty as provided in this subdivision. A civil penalty of not more than \$85,000.00 may be imposed for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$42,500.00 may be imposed for each day the violation continues. In fixing the amount of the penalty, the Court shall apply the criteria set forth in subsections (e) and (f) of this section. The cost of collection of penalties or other monetary awards shall be assessed against and added to a penalty assessed against a respondent.

(c)(1) In any civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, relief shall be obtained upon a showing that there is the probability of success on the merits and that:

(A) a violation exists; or

(B) a violation is imminent and substantial harm is likely to result.

(2) In a civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, the Secretary need not demonstrate immediate and irreparable injury, loss, or damage.

(d) Any balancing of the equities in actions under this section may affect the time by which compliance shall be attained, but not the necessity of compliance within a reasonable period of time.

(e)(1) In determining the amount of the penalty provided in subsection (b) of this section, the Court shall consider the following:

(A) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;

(B) the presence of mitigating circumstances, including unreasonable delay by the Secretary in seeking enforcement;

(C) whether the respondent knew or had reason to know the violation existed;

(D) the respondent's record of compliance;

(E) the deterrent effect of the penalty;

(F) the State's actual costs of enforcement; and

(G) the length of time the violation has existed.

(2) In determining the amount of the penalty provided in subsection (b) of this section, the Court may consider additional relevant factors.

(f) In addition to any penalty assessed under subsection (b) of this section, the Secretary may also recapture economic benefit resulting from a violation.

#### § 4996. APPEALS; ENFORCEMENT

(a) Any person subject, under this subchapter, to an administrative enforcement order, an administrative penalty, or revocation of a permit or certification who is aggrieved by a final decision of the Secretary may appeal to the Civil Division of Superior Court within 30 days of the decision. The Chief Superior judge may specially assign an environmental judge to the Civil Division of Superior Court for the purpose of hearing an appeal.

(b) If the Secretary issues an emergency order under this chapter, the person subject to the order may request a hearing before the Civil Division of Superior Court. Notice of the request for hearing under this subdivision shall be filed with the Civil Division of Superior Court and the Secretary within five days of receipt of the order. A hearing on the emergency order shall be held at the earliest possible time and shall take precedence over all other hearings. The hearing shall be held within five days of receipt of the notice of the request for hearing. A request for hearing on an emergency order shall not stay the order. The Civil Division of the Superior Court shall issue a decision within five days from the conclusion of the hearing, and no later than 30 days from the date the notice of request for hearing was received by the person subject to the order.

(c) The Civil Division of the Superior Court shall review appeals under this section on the record pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

Sec. 18. 6 V.S.A. § 4812 is amended to read:

§ 4812. ~~CORRECTIVE ACTIONS~~

~~(a) When the Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the requirements of this chapter or rules adopted under this subchapter, the Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. The warning shall include a brief description of the alleged violation, identification of this statute and applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and State assistance programs which may be utilized by the person to remedy the violation. The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices, the Secretary may act pursuant to subsection (b) of this section in order to protect water quality.~~

~~(b) The Secretary may:~~

~~(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and~~

~~(2) institute appropriate proceedings on behalf of the Agency to enforce this subchapter.~~

~~(c) Whenever the Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.~~

~~(d) [Repealed.]~~

~~(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the Secretary may appeal to the Superior Court within 30 days of the decision. The administrative judge may specially assign an Environmental judge to Superior Court for the purpose of hearing an appeal. [Repealed.]~~

Sec. 19. 6 V.S.A. § 4854 is amended to read:

§ 4854. **REVOCATION; ENFORCEMENT**

~~The secretary may revoke a permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title to any person who fails to apply for a permit as required by this subchapter, or who violates the terms or conditions of a permit issued under this subchapter. However, notwithstanding the provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00. [Repealed.]~~

Sec. 20. 6 V.S.A. § 4860 is amended to read:

§ 4860. **REVOCATION; ENFORCEMENT**

~~(a) The secretary may revoke coverage under a general permit or an individual permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title from any person who fails to comply with any permit provision as required by this subchapter or who violates the terms or conditions of coverage under any general permit or any individual permit issued under this subchapter. However, notwithstanding provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed~~

~~for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.~~

~~(b) Any person who violates any provision of this subchapter or who fails to comply with any order or the terms of any permit issued in accordance with this subchapter shall be fined not more than \$10,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.~~

~~(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter shall upon conviction be punished by a fine of not more than \$5,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense. [Repealed.]~~

Sec. 21. 10 V.S.A. § 8003 is amended to read:

(d) Upon the request of the Secretary of Agriculture, Food and Markets, the Secretary may take action under this chapter to enforce the agricultural water quality requirements of, rules adopted under, and permits and certifications issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets shall enter into a memorandum of understanding to implement this subsection.

\* \* \* Stream Alteration; Agricultural Activities \* \* \*

Sec. 22. 10 V.S.A. § 1021 is amended to read:

§ 1021. ALTERATION PROHIBITED; EXCEPTIONS

(a) A person shall not change, alter, or modify the course, current, or cross section of any watercourse or of designated outstanding resource waters, within or along the boundaries of this State either by movement, fill, or excavation of ten cubic yards or more of instream material in any year, unless authorized by the Secretary. A person shall not establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in subdivisions 752(3) and (11) of this title, unless permitted by the Secretary or constructed as an emergency protective measure under subsection (b) of this section.

\* \* \*

(f) This subchapter shall not apply to:

~~(1) accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or silvicultural practices, including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation, respectively; or~~

(2) a farm that is implementing an approved U.S. Department of Agriculture Natural Resource Conservation Service streambank stabilization project or a streambank stabilization project approved by the Secretary of Agriculture, Food and Markets that is consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

\* \* \*

\* \* \* Use Value Appraisal; Compliance with Agricultural Water Quality Requirements \* \* \*

Sec. 23. 32 V.S.A. § 3756(i) is amended to read:

~~(i)(1) The Director shall remove from use value appraisal an entire parcel of managed forest land forestland and notify the owner in accordance with the procedure in subsection (b) of this section when the Department Commissioner of Forests, Parks and Recreation has not received a management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.~~

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

(i) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

(ii) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application

for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of section 3756 of this title.

Sec. 24. 32 V.S.A. § 3758 is amended to read:

§ 3758. APPEALS

(a) Whenever the Director denies in whole or in part any application for classification as agricultural land or managed forestland or farm buildings, or grants a different classification than that applied for, or the Director or assessing officials fix a use value appraisal or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the Director to the Commissioner within 30 days of the decision, and from there to Superior Court in the county in which the property is located.

\* \* \*

(e) When the Director removes agricultural land or a farm building pursuant to notification from the Secretary of Agriculture, Food and Markets under section 3756 of this title, the exclusive right of appeal shall be as provided in 6 V.S.A. § 4996(a).

Sec. 25. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b)

of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation. “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

\* \* \* Agency of Natural Resources Basin Planning \* \* \*

Sec. 26. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED,  
RECLASSIFICATION

\* \* \*

(d)(1) ~~The~~ Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and natural resource conservation districts, shall revise all 17 15 basin plans by January 1, 2006, and update them every five years thereafter the basin plans on a five-year rotating basis. On or before January 1 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forest Products, on Natural Resources and Energy, and on Fish, Wildlife and Water Resources, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, 1993, the Secretary shall prepare an overall management plan to ensure that the water quality standards are met in all State waters. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the

subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified as Class A waters or outstanding resource waters;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the applicable regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection. When contracting with a regional planning commission to assist in or produce a basin plan, the Secretary may require the regional planning commission to:

(A) conduct any of the activities required under subdivision (2) of this subsection;

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations to better meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.

(e) In determining the question of public interest, the Secretary shall give due consideration to, and explain his or her decision with respect to, the following:

- (1) existing and obtainable water qualities;
- (2) existing and potential use of waters for public water supply, recreational, agricultural, industrial, and other legitimate purposes;
- (3) natural sources of pollution;
- (4) public and private pollution sources and the alternative means of abating the same;
- (5) consistency with the State water quality policy established in 10 V.S.A. § 1250;
- (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- (7) need for and use of minimum streamflow requirements;
- (8) federal requirements for classification and management of waters;
- (9) consistency with applicable municipal, regional, and State plans; and
- (10) any other factors relevant to determine the maximum beneficial use and enjoyment of waters.

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the Secretary need find only that the reclassification is in the public interest.

(g) The Secretary under the reclassification rule may grant permits for only a portion of the assimilative capacity of the receiving waters, or may permit only indirect discharges from on-site disposal systems, or both.

Sec. 27. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

\* \* \*

(b) It is also the intent of the Legislature that municipalities, regional planning commissions, and State agencies shall engage in a continuing planning process that will further the following goals:

\* \* \*

(c) In addition, this chapter shall be used to further the following specific goals:

\* \* \*

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

\* \* \*

Sec. 28. 24 V.S.A. § 4348(c) is amended to read:

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development; ~~and~~

(4) business, conservation, ~~low income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

Sec. 29. 24 V.S.A. § 4348a(a) is amended to read:

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

\* \* \*

(6) A statement of policies on the:

(A) preservation of rare and irreplaceable natural areas, scenic and historic features and resources; and

(B) protection and improvement of the quality of waters of the State to be used in the development and furtherance of the applicable basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253;

\* \* \*

\* \* \* Antidegradation Policy Implementation Rule \* \* \*

Sec. 30. 10 V.S.A. § 1251a(c) is amended to read:

(c) On or before ~~January 15, 2008~~ July 1, 2016, the Secretary of Natural Resources shall ~~propose draft rules for~~ adopt by rule an implementation process for the antidegradation policy in the water quality standards of the State. The implementation process for the antidegradation policy shall be consistent with the State water quality policy established in section 1250 of this title, the Vermont Water Quality Standards, and any applicable requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a final proposal of the rules for an implementation process for the antidegradation policy shall be filed with the Secretary of State under 3 V.S.A. § 841.~~ The Secretary of Natural Resources shall apply the antidegradation implementation policy to all new discharges that require a permit under this chapter and to a permit or coverage under a general permit issued a farm under 6 V.S.A. chapter 215 when the farm has the potential to discharge to State waters.

\* \* \* Stormwater Management \* \* \*

Sec. 31. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

~~(a) The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and local flooding, all of which have adverse impacts on the water and land resources of the State. The General Assembly intends, by enactment of this section, to reduce the adverse effects of stormwater runoff. The General Assembly determines that this intent may best be attained by a process that: assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; assures an adequate funding source; builds broadbased programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement two stormwater permitting programs.~~

~~The first program is based on the requirements of the federal National Pollutant Discharge Elimination System (NPDES) permit program in accordance with section 1258 of this title. The second program is a State permit program based on the requirements of this section for the discharge of “regulated stormwater runoff” as that term is defined in subdivision (11) of this subsection. As used in this section:~~

~~(1) “2002 Stormwater Management Manual” means the Agency of Natural Resources’ Stormwater Management Manual dated April 2002, as amended from time to time by rule.~~

~~(2) “Best management practice” (BMP) means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce water pollution.~~

~~(3) “Development” means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.~~

~~(4) “Existing stormwater discharge” means a discharge of regulated stormwater runoff which first occurred prior to June 1, 2002 and that is subject to the permitting requirements of this chapter.~~

~~(5) “Expansion” and “the expanded portion of an existing discharge” mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold. Expansion does not mean an increase or addition of impervious surface of less than 5,000 square feet.~~

~~(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.~~

~~(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter, which first occurs after June 1, 2002 and has not been previously authorized pursuant to this chapter.~~

~~(8) “Offset” means a State permitted or approved action or project within a stormwater impaired water that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater impaired water.~~

~~(9) “Offset charge” means the amount of sediment load or hydrologic impact that an offset must reduce or control in the stormwater impaired water in which the offset is located.~~

~~(10) “Redevelopment” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new~~

~~construction involves substantial site grading, substantial subsurface excavation, or substantial modification of existing stormwater conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean the construction or reconstruction of impervious surface where impervious surface already exists when the construction or reconstruction involves less than 5,000 square feet. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.~~

~~(11) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.~~

~~(12) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a stormwater-impaired water that mitigates a sediment load level or hydrologic impact that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.~~

~~(13) “Stormwater impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.~~

~~(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.~~

~~(15) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.~~

~~(16) “Water quality remediation plan” means a plan, other than a TMDL or sediment load allocation, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).~~

~~(17) “Watershed improvement permit” means a general permit specific to a stormwater impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.~~

~~(18) “Stormwater system” means the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.~~

~~(19) “Net zero standard” means:~~

~~(A) A new discharge or the expanded portion of an existing discharge meets the requirements of the 2002 Stormwater Management Manual and does not increase the sediment load in the receiving stormwater impaired water; or~~

~~(B) A discharge from redevelopment; from an existing discharge operating under an expired stormwater discharge permit where the property owner applies for a new permit; or from any combination of development, redevelopment, and expansion meets on-site the water quality, recharge, and channel protection criteria set forth in Table 1.1 of the 2002 Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and if the sediment load from the discharge approximates the natural runoff from an undeveloped field or open meadow that is not used for agricultural activity.~~

~~(b) The Secretary shall prepare a plan for the management of collected stormwater runoff found by the Secretary to be deleterious to receiving waters. The plan shall recognize that the runoff of stormwater is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows and natural degradation of the receiving water quality at the time of discharge. The plan shall be cost effective and designed to minimize any adverse impact of stormwater runoff to waters of the State. By no later than February 1, 2001, the Secretary shall prepare an enhanced stormwater management program and report on the content of that program to the House Committees on Fish, Wildlife and Water Resources and on Natural Resources and Energy and to the Senate Committee on Natural Resources and Energy. In developing the program, the Secretary shall consult with the Board, affected municipalities, regional entities, other State and federal agencies, and members of the public. The Secretary shall be responsible for implementation of the program. The Secretary’s stormwater management program shall include, at a minimum, provisions that:~~

~~(1) Indicate that the primary goals of the State program will be to assure compliance with the Vermont Water Quality Standards and to maintain after development, as nearly as possible, the predevelopment runoff characteristics.~~

~~(2) Allow for differences in hydrologic characteristics in different parts of the State.~~

~~(3) Incorporate stormwater management into the basin planning process conducted under section 1253 of this title.~~

~~(4) Assure consistency with applicable requirements of the federal Clean Water Act.~~

~~(5) Address stormwater management in new development and redevelopment.~~

~~(6) Control stormwater runoff from construction sites and other land disturbing activities.~~

~~(7) Indicate that water quality mitigation practices may be required for any redevelopment of previously developed sites, even when preredevlopment runoff characteristics are proposed to be maintained.~~

~~(8) Specify minimum requirements for inspection and maintenance of stormwater management practices.~~

~~(9) Promote detection and elimination of improper or illegal connections and discharges.~~

~~(10) Promote implementation of pollution prevention during the conduct of municipal operations.~~

~~(11) Provide for a design manual that includes technical guidance for the management of stormwater runoff.~~

~~(12) Encourage municipal governments to utilize existing regulatory and planning authority to implement improved stormwater management by providing technical assistance, training, research and coordination with respect to stormwater management technology, and by preparing and distributing a model local stormwater management ordinance.~~

~~(13) Promote public education and participation among citizens and municipalities about cost effective and innovative measures to reduce stormwater discharges to the waters of the State.~~

~~(c) The Secretary shall submit the program report to the House Committees on Agriculture and Forest Products, on Transportation, and on Natural Resources and Energy and to the Senate Committees on Agriculture and on Natural Resources and Energy.~~

~~(d)(1) The Secretary shall initiate rulemaking by October 15, 2004, and shall adopt a rule for a stormwater management program by June 15, 2005.~~

The rule shall be adopted in accordance with ~~3 V.S.A. chapter 25~~ and shall include:

~~(A) the regulatory elements of the program identified in subsection (b) of this section, including the development and use of offsets and the establishment and imposition of stormwater impact fees to apply when issuing permits that allow regulated stormwater runoff to stormwater impaired waters;~~

~~(B) requirements concerning the contents of permit applications that include, at a minimum, for regulated stormwater runoff, the permit application requirements contained in the Agency's 1997 stormwater management procedures;~~

~~(C) a system of notifying interested persons in a timely way of the Agency's receipt of stormwater discharge applications, provided any alleged failures with respect to such notice shall not be relevant in any Agency permit decision or any appeals brought pursuant to section 1269 of this chapter;~~

~~(D) requirements concerning a permit for discharges of regulated stormwater runoff from the development, redevelopment, or expansion of impervious surfaces equal to or greater than one acre or any combination of development, redevelopment, and expansion of impervious surfaces equal to or greater than one acre; and~~

~~(E) requirements concerning a permit for discharges of regulated stormwater runoff from an impervious surface of any size to stormwater impaired waters if the Secretary determines that treatment is necessary to reduce the adverse impact of such stormwater discharges due to the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, or other factors identified by the Secretary.~~

~~(2) Notwithstanding 3 V.S.A. § 840(a), the Secretary shall hold at least three public hearings in different areas of the State regarding the proposed rule.~~

~~(e)(1) Except as otherwise may be provided in subsection (f) of this section, the Secretary shall, for new stormwater discharges, require a permit for discharge of, regulated stormwater runoff consistent with, at a minimum, the 2002 Stormwater Management Manual. The Secretary may issue, condition, modify, revoke, or deny discharge permits for regulated stormwater runoff, as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act. The permit shall specify the use of best management practices to control regulated stormwater runoff. The permit shall require as a condition of approval, proper operation, and maintenance of any stormwater management facility and submittal by the permittee of an annual inspection report on the operation, maintenance and condition of the stormwater management system. The permit shall contain~~

~~additional conditions, requirements, and restrictions as the Secretary deems necessary to achieve and maintain compliance with the water quality standards, including requirements concerning recording, reporting, and monitoring the effects on receiving waters due to operation and maintenance of stormwater management facilities.~~

~~(2) As one of the principal means of administering an enhanced stormwater program, the Secretary may issue and enforce general permits. To the extent appropriate, such permits shall include the use of certifications of compliance by licensed professional engineers practicing within the scope of their engineering specialty. The Secretary may issue general permits for classes of regulated stormwater runoff permittees and may specify the period of time for which the permit is valid other than that specified in subdivision 1263(d)(4) of this title when such is consistent with the provisions of this section. General permits shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title. No permit is required under this section for:~~

~~(A) Stormwater runoff from farms subject to accepted agricultural practices adopted by the Secretary of Agriculture, Food and Markets;~~

~~(B) Stormwater runoff from concentrated animal feeding operations that require a permit under subsection 1263(g) of this chapter; or~~

~~(C) Stormwater runoff from silvicultural activities subject to accepted management practices adopted by the Commissioner of Forests, Parks and Recreation.~~

~~(3) Prior to issuing a permit under this subsection, the Secretary shall review the permit applicant's history of compliance with the requirements of this chapter. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this subsection if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.~~

~~(f)(1) In a stormwater impaired water, the Secretary may issue:~~

~~(A) An individual permit in a stormwater impaired water for which no TMDL, water quality remediation plan, or watershed improvement permit has been established or issued, provided that the permitted discharge meets the following discharge standard: prior to the issuance of a general permit to implement a TMDL or a water quality remediation plan, the discharge meets the net-zero standard;~~

~~(B) An individual permit or a general permit to implement a TMDL or water quality remediation plan in a stormwater impaired water, provided that the permitted discharge meets the following discharge standard:~~

~~(i) a new stormwater discharge or the expansion of an existing discharge shall meet the treatment standards for new development and expansion in the 2002 Stormwater Management Manual and any additional requirements deemed necessary by the Secretary to implement the TMDL or water quality remediation plan;~~

~~(ii) for a discharge of regulated stormwater runoff from redeveloped impervious surfaces:~~

~~(I) the existing impervious surface shall be reduced by 20 percent, or a stormwater treatment practice shall be designed to capture and treat 20 percent of the water quality volume treatment standard of the 2002 Stormwater Management Manual from the existing impervious surface; and~~

~~(II) any additional requirements deemed necessary by the Secretary to implement the TMDL or the water quality remediation plan;~~

~~(iii) an existing stormwater discharge shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or a water quality remediation plan;~~

~~(iv) if a permit is required for an expansion of an existing impervious surface or for the redevelopment of an existing impervious surface, discharges from the expansion or from the redeveloped portion of the existing impervious surface shall meet the relevant treatment standard of the 2002 Stormwater Management Manual, and the existing impervious surface shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or the water quality remediation plan;~~

~~(C) A watershed improvement permit, provided that the watershed improvement permit provides reasonable assurance of compliance with the Vermont water quality standards in five years;~~

~~(D) A general or individual permit that is implementing a TMDL or water quality remediation plan; or~~

~~(E) A statewide general permit for new discharges that the Secretary deems necessary to assure attainment of the Vermont Water Quality Standards.~~

~~(2) An authorization to discharge regulated stormwater runoff pursuant to a permit issued under this subsection shall be valid for a time period not to exceed five years. A person seeking to discharge regulated stormwater runoff after the expiration of that period shall obtain an individual permit or coverage~~

~~under a general permit, whichever is applicable, in accordance with subsection 1263(e) of this title.~~

~~(3) By January 15, 2010, the Secretary shall issue a watershed improvement permit, issue a general or individual permit implementing a TMDL approved by the EPA, or issue a general or individual permit implementing a water quality remediation plan for each of the stormwater-impaired waters on the Vermont Year 2004 Section 303(d) List of Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water quality remediation plan for a stormwater impaired water, the Secretary shall consult “A Scientifically Based Assessment and Adaptive Management Approach to Stormwater Management” and “Areas of Agreement about the Scientific Underpinnings of the Water Resources Board’s Original Seven Questions” set out in appendices A and B, respectively, of the final report of the Water Resources Board’s “Investigation Into Developing Cleanup Plans For Stormwater Impaired Waters, Docket No. Inv 03-01,” issued March 9, 2004.~~

~~(4) Discharge permits issued under this subsection shall require BMP-based stormwater treatment practices. Permit compliance shall be judged on the basis of performance of the terms and conditions of the discharge permit, including construction and maintenance in accordance with BMP specifications. Any permit issued for a new stormwater discharge or for the expanded portion of an existing discharge pursuant to this subsection shall require compliance with BMPs for stormwater collection and treatment established by the 2002 Stormwater Management Manual, and any additional requirements for stormwater treatment and control systems as the Secretary determines to be necessary to ensure that the permitted discharge does not cause or contribute to a violation of the Vermont Water Quality Standards.~~

~~(5) In addition to any permit condition otherwise authorized under subsection (e) of this section, in any permit issued pursuant to this subsection, the Secretary may require an offset or stormwater impact fee as necessary to ensure the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards. Offsets and stormwater impact fees, where utilized, shall incorporate an appropriate margin of safety to account for the variability in quantifying the load of pollutants of concern. To facilitate utilization of offsets and stormwater impact fees, the Secretary shall identify by January 1, 2005 a list of potential offsets in each of the waters listed as a stormwater impaired water under this subsection.~~

~~(g)(1) The Secretary may issue a permit consistent with the requirements of subsection (f) of this section, even where a TMDL or wasteload allocation has not been prepared for the receiving water. In any appeal under this chapter an~~

~~individual permit meeting the requirements of subsection (f) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff. This rebuttable presumption shall only apply to permitted discharges into receiving waters that are principally impaired by sources other than regulated stormwater runoff.~~

~~(2) This subsection shall apply to stormwater permits issued under the federally delegated NPDES program only to the extent allowed under federal law.~~

~~(h) The rebuttable presumption specified in subdivision (g)(1) of this section shall also apply to permitted discharges into receiving waters that meet the water quality standards of the State, provided the discharge meets the requirements of subsection (e) of this section.~~

~~(i) A residential subdivision may transfer a pretransition stormwater discharge permit or a stormwater discharge permit implementing a total maximum daily load plan to a municipality, provided that the municipality assumes responsibility for the permitting of the stormwater system that serves the residential subdivision. As used in this section:~~

~~(1) "Pretransition stormwater discharge permit" means any permit issued by the Secretary of Natural Resources pursuant to this section on or before June 30, 2004 for a discharge of stormwater.~~

~~(2) "Residential subdivision" means land identified and demarcated by recorded plat or other device that a municipality has authorized to be used primarily for residential construction.~~

~~(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:~~

~~(1) The Secretary shall issue a decision on the application within 40 days of the date the Secretary determines the application to be complete, if the application seeks authorization under a general permit.~~

~~(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.~~

~~(k) The Secretary may adopt rules regulating stormwater discharges and stormwater infrastructure repair or maintenance during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency~~

~~conditions that pose an imminent risk to life or a risk of damage to public or private property. Any rule adopted under this subsection shall comply with National Flood Insurance Program requirements. A rule adopted under this subsection shall include a requirement that an activity receive an individual stormwater discharge emergency permit or receive coverage under a general stormwater discharge emergency permit.~~

~~(1) A rule adopted under this subsection shall establish:~~

~~(A) criteria for coverage under an individual or general emergency permit;~~

~~(B) criteria for different categories of activities covered under a general emergency permit;~~

~~(C) requirements for public notification of permitted activities, including notification after initiation or completion of a permitted activity;~~

~~(D) requirements for coordination with State and municipal authorities;~~

~~(E) requirements that the Secretary document permitted activity, including, at a minimum, requirements for documenting permit terms, documenting permit duration, and documenting the nature of an activity when the rules authorize notification of the Secretary after initiation or completion of the activity.~~

~~(2) A rule adopted under this section may:~~

~~(A) establish reporting requirements for categories of activities;~~

~~(B) authorize an activity that does not require reporting to the Secretary; or~~

~~(C) authorize an activity that requires reporting to the Secretary after initiation or completion of an activity.~~

(a) Findings and intent.

(1) Findings. The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and flooding, all of which have adverse impacts on the water and land resources of the State.

(2) Intent. The General Assembly intends, by enactment of this section to:

(A) Reduce the adverse effects of stormwater runoff.

(B) Direct the Agency of Natural Resources to develop a process that assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; builds broad-based programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement a stormwater permitting program. The stormwater permitting program developed by the Secretary shall recognize that stormwater runoff is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows causing degradation of the quality of the receiving water at the time of discharge.

(b) Definitions. As used in this section:

(1) “Best management practice” (BMP) means a schedule of activities, prohibitions or practices, maintenance procedures, green infrastructure, and other management practices to prevent or reduce water pollution.

(2) “Development” means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.

(3) “Expansion” and “the expanded portion of an existing discharge” mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold.

(4) “Green infrastructure” means a wide range of multi-functional, natural and semi-natural landscape elements that are located within, around, and between developed areas, that are applicable at all spatial scales, and that are designed to control or collect stormwater runoff.

(5) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter that has not been previously authorized pursuant to this chapter.

(8) “Offset” means a State-permitted or -approved action or project within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain.

(9) “Redevelopment” or “redevelop” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of an existing stormwater conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.

(10) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain or a water that contributes to the impairment of Lake Champlain in order to mitigate a sediment load level, hydrologic impact, or other impact that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

(12) “Stormwater-impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.

(13) “Stormwater Management Manual” means the Agency of Natural Resources’ Stormwater Management Manual, as adopted and amended by rule.

(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

(15) “Stormwater system” includes the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to

the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.

(16) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.

(17) “Water quality remediation plan” means a plan, other than a TMDL, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

(18) “Watershed improvement permit” means a general permit specific to a stormwater-impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of one acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system may not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3), a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

(d) Exemptions.

(1) No permit is required under this section for:

(A) Stormwater runoff from farms in compliance with agricultural practices adopted by the Secretary of Agriculture, Food and Markets.

(B) Stormwater runoff from concentrated animal feeding operations permitted under subsection 1263(g) of this chapter.

(C) Stormwater runoff from silvicultural activities in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

(D) Stormwater runoff permitted under section 1263 of this title.

(2) No permit is required under subdivision (c)(1), (5), or (8) of this section and for which a municipality has assumed full legal as part of a permit issued to the municipality by the Secretary. As used in this subdivision, “full legal responsibility” means legal control of the stormwater system, including a legal right to access the stormwater system, a legal duty to properly maintain the stormwater system, and a legal duty to repair and replace the stormwater system when it no longer adequately protects waters of the State.

(e) State designation. The Secretary shall require a permit under this section for a discharge or stormwater runoff from any size of impervious surfaces upon a determination by the Secretary that the treatment of the discharge or stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater runoff taking into consideration any of the following factors: the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, stormwater

controls necessary to implement the wasteload allocation of a TMDL, or other factors. The Secretary may make this determination on a case-by-case basis or according to classes of activities, classes of runoff, or classes of discharge. The Secretary may make a determination under this subsection based on activities, runoff, discharges, or other information identified during the basin planning process.

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage regulated stormwater runoff. At a minimum, the rules shall:

(1) Establish as the primary goals of the rules:

(A) assuring compliance with the Vermont Water Quality Standards; and

(B) maintenance after development, as nearly as possible, of the predevelopment runoff characteristics.

(2) Establish criteria for the use of the basin planning process to establish watershed-specific priorities for the management of stormwater runoff.

(3) Assure consistency with applicable requirements of the federal Clean Water Act.

(4) Include technical standards and best management practices that address stormwater discharges from existing development, new development, and redevelopment.

(5) Specify minimum requirements for inspection and maintenance of stormwater management practices.

(6) Include standards for the management of stormwater runoff from construction sites and other land disturbing activities.

(7) Allow municipal governments to assume the full legal responsibility for a stormwater system permitted under these rules as a part of a permit issued by the Secretary.

(8) Include standards with respect to the use of offsets and stormwater impact fees.

(9) Include minimum standards for the issuance of stormwater permits during emergencies for the repair or maintenance of stormwater infrastructure during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Minimum standards adopted

under this subdivision shall comply with National Flood Insurance Program requirements.

(10) To the extent appropriate, authorize in the permitting process use of certifications of compliance by licensed professional engineers practicing within the scope of their engineering specialty.

(11) Include standards for alternative best management practices for stormwater permitting of renewable energy projects and telecommunication facilities located in high-elevation settings, provided that the alternative best management practices shall be designed to:

(A) minimize the extent and footprint of stormwater-treatment practices in order to preserve vegetation and trees;

(B) adapt to and minimize impact to ecosystems, shallow soils, and sensitive streams found in high-elevation settings;

(C) account for the temporary nature and infrequent use of construction and access roads for high-elevation projects; and

(D) maintain the predevelopment runoff characteristics, as nearly as possible, after development.

(12) Establish best management practices for improving healthy soils in order to improve the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, and prevent stormwater runoff.

(g) General permits.

(1) The Secretary may issue general permits for classes of regulated stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

(2)(A) The Secretary shall issue on or before December 31, 2017, a general permit for discharges of regulated stormwater from municipal roads. Under the municipal roads stormwater general permit, the Secretary shall:

(i) Establish a schedule for implementation of the general permit by each municipality in the State. Under the schedule, the Secretary shall establish:

(I) the date by which each municipality shall apply for coverage under the municipal roads general permit;

(II) the date by which each municipality shall inventory necessary stormwater management projects on municipal roads;

(III) the date by which each municipality shall establish a plan for implementation of stormwater improvements that prioritizes stormwater

improvements according to criteria established by the Secretary under the general permit; and

(IV) the date by which each municipality shall implement stormwater improvements of municipal roads according to a municipal implementation plan.

(ii) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements of municipal roads.

(iii) Establish criteria for municipal prioritization of stormwater improvements of municipal roads. The Secretary shall base the criteria on the water quality impacts of a stormwater discharge, the current state of a municipal road, the priority of a municipal road or stormwater project in any existing transportation capital plan developed by a municipality, and the benefits of the stormwater improvement to the life of the municipal road.

(iv) Require each municipality to submit to the Secretary and periodically update its implementation plan for stormwater improvements.

(B) The Secretary may require an individual permit for a stormwater improvement at any time under subsection (e) of this section. An individual permit shall include site-specific standards for the stormwater improvement.

(C) All municipalities shall apply for coverage under the municipal road general permit on or before July 1, 2021.

(D) As used in this subdivision (g)(2), “municipality” means a city, town, or village.

(3) On or before January 1, 2018, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under subdivision (g)(3) of this section. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, no later than October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, 2028.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision.

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a stormwater impaired water, for discharges of phosphorus to Lake Champlain, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there is sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there is sufficient pollutant load allocations for the discharge and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

(i) Disclosure of violations. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this section if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.

(j) Presumption. In any appeal under this chapter, an individual permit issued under subdivisions (c)(1) and (c)(5) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff, provided that the discharge is to a water that is not principally impaired due to stormwater.

#### Sec. 32. ANR REPORT ON REGULATORY THRESHOLD FOR PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS SURFACES

(a) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding whether and how the State should lower from one acre to one-half acre of impervious surface the regulatory permitting threshold for an operating permit for stormwater runoff from new development, redevelopment, or expansion. The report shall include:

(1) a recommendation as to whether the State should lower the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(2) an estimate of the number of additional development projects that would require an operating permit for stormwater runoff if the regulatory permitting threshold were lowered from one acre to one-half acre of impervious surface;

(3) an estimate of the environmental benefit of reducing the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(4) an estimate of the number of staff that would be needed by the Agency of Natural Resources to effectively implement a stormwater operating permit program with a regulatory permitting threshold of one-half acre of impervious surface; and

(5) a recommendation for regulating construction, redevelopment, or expansion of impervious surface based on a tiered system of acreage, square footage, or other measure.

(b) The definitions provided in 10 V.S.A. § 1264 shall apply to this section.

### Sec. 33. STORMWATER MANAGEMENT PRACTICES HANDBOOK

On or before January 1, 2016, the Secretary of Natural Resources shall publish as a handbook a suite of practical and cost-effective best management practices for the control of stormwater runoff and reduction of adverse water quality effects from the construction, redevelopment, or expansion of impervious surface that does not require a permit under 10 V.S.A. § 1264. The best management practices shall address activities that control, mitigate, or eliminate stormwater runoff to waters of the State. The stormwater management practices handbook shall be advisory and shall not be mandatory.

### Sec. 34. AGENCY OF NATURAL RESOURCES REPORT ON THE LAND APPLICATION OF SEPTAGE AND SLUDGE

(a) As used in this section:

(1) "Septage" means the liquid and solid materials pumped from a septic tank or cesspool during cleaning.

(2) "Sludge" means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

(b) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources a report regarding the land application of septage and sludge in the State. The report shall include:

(1) a summary of the current law regarding the land application of septage or sludge, including any permit requirements;

(2) a summary of how current law for the land application of septage and sludge is designed to protect groundwater or water quality;

(3) an analysis of the feasibility of treating or disposing of septage or sludge in a manner other than land application that is at least as protective of groundwater or water quality as land application; and

(4) an estimate of the cost of treating or disposing of septage or sludge in a manner other than land application.

\* \* \* Water Quality Data Coordination \* \* \*

Sec. 35. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

(a) To facilitate attainment or accomplishment of the purposes of this chapter, the Secretary shall coordinate and assess all available data and science regarding the quality of the waters of the State, including:

(1) light detection and ranging information data (LIDAR);

(2) stream gauge data;

(3) stream mapping, including fluvial erosion hazard maps;

(4) water quality monitoring or sampling data;

(5) cumulative stressors on a watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and

(6) any other data available to the Secretary.

(b) After coordination of the data required under subsection (a) of this section, the Secretary shall:

(1) assess where additional data are needed and the best methods for collection of such data;

(2) identify and map on a watershed basis areas of the State that are significant contributors to water quality problems or are in critical need of water quality remediation or response.

(c) The Secretary shall post all data compiled under this section on the website of the Agency of Natural Resources.

\* \* \* Lake Champlain TMDL Implementation Plan\* \* \*

Sec. 36. 10 V.S.A. § 1386 is amended to read:

§ 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN  
TOTAL MAXIMUM DAILY LOAD PLAN

(a) Within ~~12~~ three months after the issuance of a phosphorus total maximum daily load plan (TMDL) for Lake Champlain by the U.S.

~~Environmental Protection Agency, the Secretary of Natural Resources shall issue a Vermont-specific implementation plan for the Lake Champlain TMDL. Every four years after issuance of the Lake Champlain TMDL by the U.S. Environmental Protection Agency, the Secretary of Natural Resources shall amend and update the Vermont-specific implementation plan for the Lake Champlain TMDL. Prior to issuing, amending, or updating the implementation plan, the Secretary shall consult with the Agency of Agriculture, Food and Markets, all statewide environmental organizations that express an interest in the plan, the Vermont League of Cities and Towns, all business organizations that express an interest in the plan, the University of Vermont Rubenstein Ecosystem Science Laboratory, and other interested parties. The implementation plan shall include a comprehensive strategy for implementing the Lake Champlain TMDL plan and for the remediation of Lake Champlain. The implementation plan shall be issued as a document separate from the Lake Champlain TMDL. The implementation plan shall:~~

~~(1) Include or reference the elements set forth in 40 C.F.R. § 130.6(c) for water quality management plans;~~

~~(2) Comply with the requirements of section 1258 of this title and administer a permit program to manage discharges to Lake Champlain consistent with the federal Clean Water Act;~~

~~(3) Develop a process for identifying critical source areas for non-point source pollution in each subwatershed. As used in this subdivision, "critical source area" means an area in a watershed with high potential for the release, discharge, or runoff of phosphorus to the waters of the State;~~

~~(4) Develop site-specific plans to reduce point source and non-point source load discharges in critical source areas identified under subdivision (3) of this subsection;~~

~~(5) Develop a method for identifying and prioritizing on public and private land pollution control projects with the potential to provide the greatest water quality benefits to Lake Champlain;~~

~~(6) Develop a method of accounting for changes in phosphorus loading to Lake Champlain due to implementation of the TMDL and other factors;~~

~~(7) Develop phosphorus reduction targets related to phosphorus reduction for each water quality program and for each segment of Lake Champlain, including benchmarks for phosphorus reduction that shall be achieved. The implementation plan shall explain the methodology used to develop phosphorus reduction targets under this subdivision;~~

~~(8) Establish a method for the coordination and collaboration of water quality programs within the State;~~

~~(9) Develop a method for offering incentives or disincentives to wastewater treatment plants for maintaining the 2006 levels of phosphorus discharge to Lake Champlain;~~

~~(10) Develop a method of offering incentives or disincentives for reducing the phosphorus contribution of stormwater discharges within the Lake Champlain basin update the State of Vermont's phase I TMDL implementation plan to reflect the elements that the State determines are necessary to meet the allocations established in the final TMDL for Lake Champlain. The update of the phase I TMDL implementation plan for Lake Champlain shall explain how basin plans will be used to implement the updated phase I TMDL implementation plan, and shall include a schedule for the adoption of basin plans within the Lake Champlain basin. In addition to the requirements of subsection 1253(d) of this title, a basin plan for a basin within the Lake Champlain basin shall include the following:~~

~~(1) phosphorus reduction strategies within the basin that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;~~

~~(2) a schedule for the issuance of permits to control phosphorus discharges from wastewater treatment facilities as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;~~

~~(3) a schedule for the issuance of permits to control stormwater discharges as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;~~

~~(4) wetland and river corridor restoration and protection projects that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;~~

~~(5) a table of non-point source activities that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain; and~~

~~(6) other strategies and activities that the Secretary determines to be necessary to achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain.~~

~~(b) In amending the Vermont specific implementation plan of the Lake Champlain TMDL under this section, the Secretary of Natural Resources shall comply with the public participation requirements of 40 C.F.R.~~

~~§ 130.7(c)(1)(ii)~~ The Secretary shall develop and implement a method of tracking and accounting for actions implemented to achieve the Lake Champlain TMDL.

(c) Prior to finalizing the update to the phase I TMDL implementation plan for Lake Champlain, the Secretary shall provide notice to the public of the proposed revisions and a comment period of no less than 30 days.

(d) On or before January 15 in the year following issuance of the updated phase I TMDL implementation plan for Lake Champlain under subsection (a) of this section and every four years thereafter, the Secretary shall report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the execution of the updated phase I TMDL implementation plan for Lake Champlain. The report shall include:

(1) ~~The amendments or revisions to the implementation plan for the Lake Champlain TMDL required by subsection (a) of this section. Prior to submitting a report required by this subsection that includes amendments to revisions to the implementation plan, the Secretary shall hold at least three public hearings in the Lake Champlain watershed to describe the amendments and revisions to the implementation plan for the Lake Champlain TMDL. The Secretary shall prepare a responsiveness summary for each public hearing~~ A summary of the efforts undertaken to implement the phase I TMDL implementation plan for Lake Champlain.

(2) An assessment of the implementation plan for the Lake Champlain TMDL based on available data, including an evaluation of the efficacy of the phase I TMDL implementation plan for Lake Champlain.

(3) ~~Recommendations, if any, for amending the implementation plan or for reopening the Lake Champlain TMDL.~~

~~(d)~~(e) Beginning on February 1, 2014 2016, and annually thereafter, the Secretary, after consultation with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture a summary of activities and measures of progress of water quality ecosystem restoration programs.

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board;  
Audit \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the “Clean Water Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

(1) the Fund shall be administered by the Clean Water Fund Board established under section 1389 of this title;

(2) the Fund shall consist of:

(A) revenues dedicated for deposit into the Fund by the General Assembly, including the Clean Water Fund per parcel fee established under 32 V.S.A. § 10502.

(B) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Board.

(b) Unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Powers and duties of the Clean Water Fund Board.

(1) The Clean Water Fund Board shall have the following powers and authority:

(A) to receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation on the expenditures of the Fund;

(B) to make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(C) to pursue and accept grants, gifts, donations, or other funding from any public or private source and to administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(2) The Clean Water Fund Board shall develop:

(A) A protocol for how an administrative agency in the State shall submit a proposed recommendation of award from the Fund.

(B) an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) measures for determining progress and effectiveness of expenditures for clean water restoration efforts; and

(D) the annual clean water investment report required under section 1389a of this title.

(3) The Clean Water Fund Board shall solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to maintain seven staff positions at the Agency of Agriculture, Food and Markets related to improving State water quality;

(B) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(C) funding to projects that address water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(D) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(E) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(F) funding for education, outreach, demonstration and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(G) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board may prioritize:

(A) funding for education and outreach regarding the implementation of water quality requirements;

(B) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters; and

(C) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivisions (e)(1) and (2), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements.

(4) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivisions (e)(1) and (2), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State; and

(f) The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained, if it was not attained, why it was not attained, and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet

objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Board shall develop and use a results based accountability process in publishing the annual report required by subsection (a) of this section.

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2020, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) A summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) An analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) An evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) An assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State.

(5) A recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section § 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Clean Water Fund Per Parcel Fee \* \* \*

Sec. 38. 32 V.S.A. § 10502 is added to read:

§ 10502. CLEAN WATER FUND PER PARCEL FEE

(a) Per parcel fee. An annual Clean Water Fund per parcel fee of \$25.00 shall be assessed on every parcel in the State.

(b) Exemption. A municipality shall not assess the fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(c) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Fund per parcel fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Clean Water Fund Per Parcel Fee." The Clean Water Fund per parcel fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Clean Water Fund per parcel fee to the State Treasurer:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.

(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the Clean Water Fund per parcel fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the per parcel fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax under subsection 5402(b) and the full amount of the Clean Water Fund per parcel fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting monies to the Clean Water Fund under subsection (d) of this section.

(d) Disposition. The State Treasurer shall deposit all fees collected under this section in the Clean Water Fund, established under 10 V.S.A. § 1388, for the uses authorized by that Fund under 10 V.S.A. chapter 47, subchapter 7.

(e) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Clean Water Fund per parcel fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Clean Water Fund per parcel fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(f) Abatement. A person may seek and a municipality may grant abatement under 24 V.S.A. § 1535 of a fee assessed under this section.

(g) Education and outreach. The Department shall hold educational meetings or prepare educational materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

**§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED**

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Clean Water per parcel fee assessed under section 10502 of this title; collector's deed, \$30.00;

which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

Sec. 40. REPEAL OF CLEAN WATER FUND PER PARCEL FEE

32 V.S.A. § 10502 (Clean Water Fund per parcel fee) shall be repealed on July 1, 2021.

\* \* \* Appropriations of Agency Staff \* \* \*

Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Clean Water Fund created under 10 V.S.A § 1388 to the Agency of Agriculture, Food and Markets \$952,000.00 in fiscal year 2016 for the purpose of hiring seven positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department of Environmental Conservation \$1,312,556.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Secretary of Administration; Report on Per Parcel Fee \* \* \*

Sec. 43. SECRETARY OF ADMINISTRATION REPORT ON IMPERVIOUS SURFACE WATER QUALITY FEE

(a) On or before January 15, 2016, the Secretary of Administration, after consultation with the Agency of Transportation and the Department of Taxes, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for establishing a fee on impervious surface in the State for the purpose of raising revenue to fund water quality improvement programs in the State. The recommendation shall include:

(1) An impervious surface fee that provides for equitable apportionment among all parcel owners, including owners of industrial property, commercial property, residential property, or agricultural lands. The recommendation shall consider establishing a fee structure that creates incentives or rewards for owners of impervious surface, including municipal and state roads, who provide treatment that exceeds the minimum regulatory requirement or utilizes innovative approaches to the management of stormwater.

(2) An estimate of the amount of revenue to be generated from the proposed impervious surface fee.

(3) a summary of how assessment of the fee will be administered, collected, and enforced; and

(4) a legislative proposal to implement the proposed impervious surface fee program.

(b) As used in this section, “parcel” shall have the same meaning as defined in section 4152 of this title.

\* \* \* Department of Environmental Conservation Water Quality Fees \* \* \*

Sec. 44. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

\* \* \*

(i) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons who are exempt under 32 V.S.A. § 710 are also exempt from the application fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I) and (II) of this section if they otherwise meet the requirements of 32 V.S.A. § 710.~~ Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), ~~(2)~~, (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for orphan stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section when the municipality agrees to become an applicant or co-applicant for an orphan stormwater system under 10 V.S.A. § 1264e for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

\* \* \*

(2) For discharge permits issued under 10 V.S.A. chapter 47 and orders issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~ \$240.00 shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (2)(A)(iii)(III) and (V) of this subsection:

(A) Application review fee.

(i) Municipal, industrial, noncontact cooling water, and thermal discharges.

(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process;	<del>\$0.0023</del> <u>\$0.003</u> per gallon design flow; minimum \$50.00 <u>\$100.00</u> per outfall; maximum \$30,000.00 per application.
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(II) Renewal, transfer, or minor amendment of individual permit;	<del>\$0.00</del> <u>\$0.002</u> per gallon design flow; minimum \$50.00 per outfall; maximum \$5,000.00 per application.
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(III) General permit;	\$0.00.
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(ii) Pretreatment discharges.

(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process;	<del>\$0.12</del> <u>\$0.20</u> per gallon design flow; minimum \$50.00 <u>\$100.00</u> per outfall.
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- (II) Renewal, transfer, or minor amendment of individual permit:; ~~\$0.00~~ \$0.002 per gallon design flow; minimum \$50.00 per outfall.
- (iii) Stormwater discharges.
- (I) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class B waters: original application; amendment for increased flows; amendment for change in treatment process:; ~~\$430.00~~ \$860.00 per acre impervious area; minimum \$220.00 \$440.00 per application.
- (II) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class A waters; original application; amendment for increased flows; amendment for change in treatment process. \$1,400.00 per acre impervious area; minimum \$1,400.00 per application.
- (III) Individual permit or application to operate under general permit for construction activities; original application; amendment for increased acreage.
- (aa) Projects with low risk to waters of the State:; ~~\$50.00~~ five acres or less: \$100.00 per project; original application.

- (bb) Projects with low risk to waters of the State; greater than five acres: \$220.00 per project.
- (cc) Projects with moderate risk to waters of the State-; ~~\$360.00;~~ five acres or less: \$480.00 per project original application.
- ~~(cc) Projects that require an individual permit.~~ ~~\$720.00 per project original application.~~
- (dd) Projects with moderate risk to waters of the State; greater than five acres: \$640.00.
- (ee) Projects that require an individual permit; ten acres or less: \$1,200.00.
- (ff) Projects that require an individual permit; greater than 10 acres: \$1,800.00.
- (IV) Individual permit or application to operate under general permit for stormwater runoff associated with industrial activities with specified SIC codes; original application; amendment for change in activities-; ~~\$220.00~~ \$440.00 per facility.
- (V) Individual permit or application to operate under general permit for stormwater runoff associated with ~~\$1,200.00~~ \$2,400.00 per system.

municipal separate storm sewer systems; original application; amendment for change in activities-;

(VI) Individual operating permit or application to operate under a general permit for a residually designated stormwater discharge original application; amendment; for increased flows amendment; for change in treatment process.

(aa) For discharges to Class B water; ~~\$430.00~~ \$860.00 per acre of impervious area, minimum ~~\$220.00~~ \$280.00.

(bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00 per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.

(VII) Renewal, transfer, or minor amendment of individual permit ~~or approval under general permit~~; \$0.00.

(VIII) Application for coverage under the municipal roads stormwater general permit: \$400.00 per application.

(IX) Application for coverage under the State roads stormwater general permit: \$1,200.00.

\* \* \*

(B) Annual operating fee.

(i) Industrial, noncontact cooling water and thermal discharges-; ~~\$0.004~~ \$0.0015 per gallon design capacity. ~~\$150.00~~ \$200.00 minimum; maximum \$210,000.00.

(ii) Municipal-; ~~\$0.003~~ \$0.003 per gallon of ~~actual~~ design flows. ~~\$150.00~~ \$200.00 minimum; maximum \$12,500.00.

(iii) Pretreatment discharges: ~~\$0.0385~~ \$0.04 per gallon design capacity. ~~\$150.00~~ \$200.00 minimum; maximum \$27,500.00.

(iv) Stormwater:

(I) Individual operating permit ~~\$255.00~~ \$310.00 per acre or approval under general operating impervious area; ~~\$235.00~~ permit for collected stormwater \$310.00 minimum. runoff which is discharged to class A waters:

(II) Individual operating permit ~~\$80.00~~ \$160.00 per acre or approval under general operating impervious area; ~~\$80.00~~ permit for collected stormwater \$160.00 minimum. runoff which is discharged to Class B waters:

(III) Individual permit or ~~\$80.00~~ \$160.00 approval under general permit per facility. for stormwater runoff from industrial facilities with specified SIC codes:

(IV) Individual permit or ~~\$80.00 per system~~ application to operate under \$10.00 per acre of general permit for stormwater impervious surface within runoff associated with municipal the municipality; annually. separate storm sewer systems:

(V) Individual permit or approval under general permit for residually designated stormwater discharges.

(aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per acre of impervious area, minimum ~~\$255.00~~ \$310.00.

(bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per acre of impervious area, minimum ~~\$80.00~~ \$160.00.

(VI) Application to operate under a general permit for stormwater runoff associated with municipal roads: \$2,000.00 per authorization annually.

(VII) Application to operate under a general permit for stormwater runoff associated with State roads: \$90,000.00 per authorization annually.

\* \* \*

(11) For stream alteration and flood hazard area permits issued under 10 V.S.A. ~~chapter~~ chapters 41 and 32: ~~\$225.00~~ per application.

(A) Stream alteration; individual permit: \$350.00.

(B) Stream alteration; general permit; reporting category: \$200.00.

(C) Stream alteration; individual permit; municipal bridge, culvert, and unimproved property protection: \$350.00.

(D) Stream alteration; general permit; municipal bridge, culvert, and unimproved property protection: \$200.00.

(E) Stream alteration; Agency of Transportation reviews; bridge, culvert, and high risk projects: \$350.00.

(F) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling required: \$350.00.

(G) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling not required: \$200.00.

(H) Flood hazard area; municipal reviews; reviews requiring hydraulic and hydrologic modeling, compensatory storage volumetric analysis, or river corridor equilibrium: \$350.00.

(I) Flood hazard area; municipal review; projects not requiring hydraulic or hydrologic modeling: \$200.00.

(J) River corridor; major map amendments: \$350.00.

(12) For dam permits issued under 10 V.S.A. chapter 43: ~~0.525~~ 1.00 percent of construction costs, minimum fee of ~~\$200.00~~ \$1,000.00.

\* \* \*

(14) For certification of sewage treatment plant operators issued under 10 V.S.A. chapter 47:

(A) original application: ~~\$110.00~~ \$125.00.

(B) renewal application; ~~\$110.00~~ \$125.00.

(15) For sludge or septage facility certifications issued under 10 V.S.A. chapter 159:

(A) land application sites; facilities that further reduce pathogens; disposal facilities;: ~~\$950.00~~ \$1,000.00 per application.

(B) all other types of facilities; ~~\$110.00~~ \$125.00 per application.

\* \* \*

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands;

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. ~~For purposes of~~ As used in this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines and the production of Christmas trees;

(D) \$0.25 per square foot of proposed impact to Class I or II wetlands or Class I or II wetland buffer for utility line, pipeline, and ski trail projects when the proposed impact is limited to clearing forested wetlands in a corridor and maintaining a cleared condition in that corridor for the project life;

(E) \$1.50 per square foot of impact to Class I or II wetlands when the permit is sought after the impact has taken place;

(F) \$100.00 per revision to an application for an individual wetland permit or authorization under a general permit when the supplement is due to a change to the project that was not requested by the Secretary; and

(G) minimum fee, \$50.00 per application.

\* \* \*

(33) \$10.00 per 1,000 gallons based on the rated capacity of the tank being pumped rounded to the nearest 1,000 gallon.

\* \* \*

Sec. 45. 32 V.S.A. § 710 is amended to read:

§ 710. PAYMENT OF STATE AGENCY FEES

(a) Notwithstanding any other provision of law, the Agency of Transportation, any cooperating municipalities, and their contractors or agents shall be exempt from the payment of fee charges for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for any projects undertaken by or for the Agency and any cooperating municipalities for which all or a portion of the funds are authorized by a legislatively approved transportation construction, rehabilitation, or paving program within a general appropriation act introduced pursuant to section 701 of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(b) Notwithstanding any other provision of law, no fees shall be charged for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for:

(1) Any project undertaken by the Department of Buildings and General Services, the Agency of Natural Resources, or the Agency of Transportation which is authorized or funded in whole or in part by the capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(2) Any project undertaken by a municipality, which is funded in whole or in part by a grant or loan from the Agency of Natural Resources or the Agency of Transportation financed by an appropriation of a capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26). However, all such fees shall be paid for reviews, inspections, or permits required by municipal solid waste facilities developed by a solid waste district which serves, or is expected to serve, in whole or in part, parties located outside its own district boundaries pursuant to 10 V.S.A. chapter 159.

Sec. 46. ASSESSMENT OF DEC FEES ON STATE AGENCIES AND MUNICIPALITIES

When applicable, the Agency of Natural Resources shall assess fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26) on municipalities at the end of the most recent applicable municipal fiscal year in order to avoid potential effects on approved municipal budgets.

\* \* \* Wastewater Treatment Plants; Financial Assistance for Phosphorus Reduction \* \* \*

Sec. 47. 10 V.S.A. § 1266a is amended to read:

§ 1266a. DISCHARGES OF PHOSPHORUS

(a) No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis. Discharges of less than 200,000 gallons per day, permitted on or before July 1, 1991, shall not be subject to the requirements of this subsection. Discharges from a municipally owned aerated lagoon type secondary sewage treatment plant in the Lake Memphremagog drainage basin, permitted on or before July 1, 1991 shall not be subject to the requirements of this subsection unless the plant is modified to use a technology other than aerated lagoons.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary shall establish effluent phosphorus wasteload allocations or concentration limits within any drainage basin in Vermont, as needed to achieve wasteload allocations in a total maximum daily load document approved by the U.S. Environmental Protection Agency, or as needed to attain compliance with water quality standards adopted by the Secretary pursuant to chapter 47 of this title.

~~(c) The Secretary of Natural Resources shall establish a schedule for municipalities that requires compliance with this section at a rate that corresponds to the rate at which funds are provided under subsection 1625(e) of this title. To the extent that funds are not provided to municipalities eligible under that subsection, municipal compliance with this section shall not be required. [Repealed.]~~

Sec. 48. 10 V.S.A. § 1625 is amended to read:

§ 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO  
ABATE DRY WEATHER SEWAGE FLOWS

(a) When the Department finds that a proposed water pollution abatement project is necessary to maintain water quality standards during dry weather sewage flows, and that the proposed type, kind, quality, size, and estimated cost, including operation cost and sewage disposal charges, of the project are suitable for abatement of pollution, and the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under chapter 47 of this title, the Department may award to municipalities a State assistance grant of up to 25 percent of the eligible project cost, provided that in no case shall the total of the State and federal grants exceed 90 percent of the eligible project costs:

(1) except that the 90 percent limitation shall not apply when the municipality provides, as their local share, federal funds allocated to them for the purpose of matching other federal grant programs having a matching requirement; and

(2) except that the total of ~~state~~ State and federal grants issued under P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs for innovative or alternative wastewater treatment processes and techniques.

(b) In carrying out the purposes of this subchapter, the Department shall define the purpose and scope of an eligible project, including a determination of the area to be served, type of treatment, effluent limitations, eligible construction costs, cost accounting procedures and methods and other such project construction, operation and fiscal elements necessary to meet federal aid requirements. The Department shall, as a part of the administration of this grant program, encourage municipalities to undertake capital development planning and to establish water and sewer charges along public utility concepts.

(c) Any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.

(d) The Department may award a State assistance grant of up to 50 percent of the eligible costs of an approved pollution abatement project or a portion thereof not eligible for federal financial assistance in a municipality that is certified by the Secretary of Commerce and Community Development to be within the designated job development zone. To achieve the objectives of chapter 29, subchapter 2 of this title, the eligibility and priority provisions of

this chapter do not apply to municipalities within a designated job development zone.

~~(e) If the Department finds that a proposed municipal water pollution control project is necessary to reduce effluent phosphorus concentration or mass loading to the level required in section 1266a of this title, the Department shall award to the municipality, subject to the availability of funds, a state assistance grant. Such grants shall be for 100 percent of the eligible project cost. This funding shall not be available for phosphorus removal projects where the effluent concentration must be reduced in order to maintain a previously permitted mass loading of phosphorus. [Repealed.]~~

\* \* \* Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont \* \* \*

Sec. 49. 10 V.S.A. § 2622 is amended to read:

§ 2622. RULES; HARVESTING TIMBER; FORESTS; ACCEPTABLE MANAGEMENT PRACTICES FOR MAINTAINING WATER QUALITY

(a) Silvicultural practices. The commissioner shall adopt rules to establish methods by which the harvest and utilization of timber in private and public ~~forest land~~ forestland will be consistent with continuous forest growth, including reforestation, will prevent wasteful and dangerous forestry practices, will regulate heavy cutting, will encourage good forestry management, will enable and assist landowners to practice good forestry management, and will conserve the natural resources consistent with the purposes and policies of this chapter, giving due consideration to the need to assure continuous supplies of forest products and to the rights of the owner or operator of the land. ~~Such~~The rules adopted under this subsection shall be advisory, and not mandatory except that the rules adopted under section 2625 of this title for the regulation of heavy cutting shall be mandatory as shall other rules specifically authorized to be mandatory.

(b) Acceptable management practices. On or before July 1, 2016, the Commissioner shall revise by rule the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont. The revised acceptable management practices shall ensure that all logging operations, on both public and private forestland, are designed to: prevent or minimize discharges of sediment, petroleum products, and woody debris (logging slash) from entering streams and other bodies of water; improve soil health of forestland; protect aquatic habitat and aquatic wildlife; and prevent erosion and maintain natural water temperature. The purpose of the acceptable management practices is to provide measures for loggers, foresters, and

landowners to utilize, before, during, and after logging operations to comply with the Vermont Water Quality Standards and minimize the potential for a discharge from logging operations in Vermont in accordance with section 1259 of this title. The rules adopted under this subsection shall be advisory and not mandatory.

Sec. 50. DEPARTMENT OF FORESTS, PARKS AND RECREATION  
REPORT; ACCEPTABLE MANAGEMENT PRACTICES;  
MAPLE SYRUP PRODUCTION UNDER USE VALUE  
APPRAISAL

On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources and Energy a recommendation and supporting basis as to how:

(1) to implement the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as mandatory practices for all logging operations on public and private forestland;

(2) the Department of Forests, Parks and Recreation will enforce Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont; and

(3) whether maple syrup production on forestland should be required to enroll in the use value appraisal program under 32 V.S.A. chapter 124 as managed forestland and not agricultural land.

Sec. 51. 10 V.S.A. § 1259(f) is amended to read:

(f) The provisions of subsections (c), (d), and (e) of this section shall not regulate ~~accepted required~~ agricultural ~~or silvicultural~~ practices, as ~~such are defined adopted by rule by the secretary of agriculture, food and markets and the commissioner of forests, parks and recreation, respectively, after an opportunity for a public hearing~~ Secretary of Agriculture, Food and Markets, or the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a permit under section 1263 of this title; nor shall those provisions prohibit stormwater runoff or the discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

Sec. 52. 24 V.S.A. § 4413(d) is amended to read:

(d) A bylaw under this chapter shall not regulate ~~accepted required~~ agricultural ~~and silvicultural~~ practices, including the construction of farm

structures, as those practices are defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or the ~~commissioner of forests, parks and recreation~~ Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A. §§ ~~1021(f) and 1259(f)~~ § 2622 and 6 V.S.A. § 4810.

\* \* \*

\* \* \* Eligibility for Ecosystem Restoration Program Assistance \* \* \*

Sec. 53. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

It is the policy of the State of Vermont that all municipal separate storm sewer system (MS4) communities in the State shall be eligible for grants and other financial assistance from the Agency of Natural Resources' Ecosystem Restoration Program, the Clean Water Fund, or any other State water quality financing program. A project or proposal that is the subject of an application for a grant or other assistance from the Agency of Natural Resources shall not be denied solely on the basis that the project or proposal may be construed as a regulatory requirement of the MS4 permit program.

Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Clean Water Fund per parcel fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) Sec. 3 (small farm certification) shall take effect on July 1, 2017;

(2) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(3) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for April 1, 2015, pages 843-928 and April 2, 2015, page 940)

**Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources & Energy with the following amendments thereto:

First: By striking out Secs. 37–43 in their entirety, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Legacy Fund;  
Statewide Water Quality Fee \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Legacy Fund

§ 1387. PURPOSE

The General Assembly establishes in this subchapter a Vermont Clean Water Legacy Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Legacy Fund shall be used to:

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs, including implementation of total maximum daily load cleanup plans for Lake Champlain, the Connecticut River, Lake Memphremagog, and over 200 other water segments across the State;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions;

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects; and

(4) provide transparency in the collection and administration of funding the improvement of water quality in the State.

§ 1388. CLEAN WATER LEGACY FUND

(a) There is created a special fund in the State treasury to be known as the “Clean Water Legacy Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, the Fund shall be administered by the Clean Water Legacy Fund Board established under section 1389 of this title;

(b) The Clean Water Legacy Fund shall consist of:

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Statewide Water Quality fee under 32 V.S.A. chapter 245.

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Board.

(c) Unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER LEGACY FUND BOARD

(a) Creation. There is created a Clean Water Legacy Fund Board which shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Legacy Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee;

(6) a representative of the Lake Champlain Basin Program, to be appointed by the Governor;

(7) a representative of a regional or community-based watershed or water quality organization to be appointed by the Committee on Committees;

(8) a farmer or representative of an organization that represents farmers, to be appointed by the Speaker of the House;

(9) a person with expertise in financial lending or investment, to be appointed by the Committee on Committees; and

(10) a representative of a municipality or organization representing

municipalities, to be appointed by the Speaker of the House.

(c) Officers; committees; rules. The Secretary of Administration or designee shall serve as Chair of the Clean Water Legacy Fund Board. The Clean Water Legacy Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Member terms. The members of the Clean Water Legacy Fund Board appointed by the Governor, Committee on Committees, or Speaker of the House shall serve staggered terms. The member appointed by the Governor shall serve an initial term of three years. Members appointed by the Committee on Committees shall serve initial terms of two years. The members appointed by the Speaker of the House shall serve initial terms of one year. Thereafter, each of the appointed members shall serve a term of three years. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three consecutive three-year terms.

(e) Compensation. Members of the Clean Water Legacy Fund Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be paid from the budget of the Agency of Administration.

(f) Powers and duties of the Clean Water Legacy Fund Board.

(1) The Clean Water Legacy Fund Board shall:

(A) Receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation regarding expenditures of the Fund.

(B) Make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Legacy Fund for the purposes of developing the State budget. The Board shall structure its recommendations to achieve the greatest water quality gain for the investment.

(C) Pursue and accept grants, gifts, donations, or other funding from any public or private source and administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(D) Beginning on July 15, 2016, and every five years thereafter, develop a five-year plan for the disbursement of monies from the Clean Water Legacy Fund, including the type of projects to be funded, the management strategies to prioritize, and the methods or measurements to ensure

accountability of funded projects or programs. An initial priority for disbursements under the Fund shall be for management within the Lake Champlain watershed.

(E) Develop an annual revenue estimate and proposed budget for the Clean Water Legacy Fund.

(F) Issue the annual clean water investment report required under section 1389a of this title.

(G) Solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Legacy Fund.

(H) Submit to the General Assembly recommended amendments or changes to requirements or administration of the Clean Water Legacy Fund, including the assessment and collection of the Statewide Water Quality fee under 32 V.S.A. chapter 245.

(I) After consultation with the State Treasurer, submit to the General Assembly on or before January 15, 2020, a recommendation as to whether revenue deposited into the Clean Water Legacy Fund could be used to support the issuance of bonded indebtedness for the purposes of financing water quality programs and projects in the State.

(2) The Clean Water Legacy Fund Board may pursue and accept grants or other funding from any public or private source in order to administer loans or grants under this section.

(g) Priorities.

(1) In making recommendations under subsection (f) of this section regarding the appropriate allocation of funds from the Clean Water Legacy Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address areas identified as a significant source of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(F) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Clean Water Legacy Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection, prioritize award or assistance to municipalities for municipal compliance with water quality requirements.

(3) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection, attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and nonpoint sources of pollution in the State.

(h) Staff support. The Clean Water Legacy Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Legacy Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Legacy Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Legacy Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including: whether those funding sources were attained; if funding was not attained, why it was not attained; and how additional sources of money were allocated from the Fund. The report may also provide an overview of

additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Clean Water Legacy Fund Board shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section

#### § 1389b. CLEAN WATER LEGACY FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the Senate Committee on Finance, the House Committee on Ways and Means, the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Legacy Fund. The report shall include:

(1) a summary of the expenditures from the Clean Water Legacy Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Legacy Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Legacy Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Legacy Fund, established under section 1388 of this title.

Sec. 38. 32 V.S.A. chapter 245 is added to read:

CHAPTER 245. WATER QUALITY

§ 10502. STATEWIDE WATER QUALITY FEE

(a) Statewide Water Quality fee.

(1) An annual Statewide Water Quality fee shall be imposed on every parcel in the State.

(2)(A) The Statewide Water Quality fee shall be as follows:

(i) \$0.50 per acre of forestland enrolled in use value appraisal under chapter 124 of this title; and

(ii) \$1.00 per acre for all other land.

(B) The minimum fee assessed under this section shall be \$15.00.

(3) In calculating the Statewide Water Quality fee for properties of more than 15 acres, parcels shall be rounded down to the nearest whole acre.

(b) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Legacy Fund fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Statewide Water Quality Fee." The Statewide Water Quality fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Statewide Water Quality fee to the Department of Taxes:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.

(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the Statewide Water Quality fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax

under subsection 5402(b) and the full amount of the Statewide Water Quality fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting fees to the Department of Taxes under subdivision (2) of this subsection.

(c) Exemption. A municipality shall not assess the Statewide Water Quality fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(d) Refund. A person who in any one year pays more than \$10,000.00 in fees under this section for a parcel or parcels they own shall, upon application to the Department of Taxes, be eligible for a refund of all fees paid in excess of \$10,000.00 a year.

(e) Disposition. The Commissioner of Taxes shall deposit all fees collected under this section in the Clean Water Legacy Fund, established under 10 V.S.A. § 1388, for the authorized uses of that Fund.

(f) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Statewide Water Quality fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Statewide Water Quality fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(g) Abatement. A person may seek and a municipality may grant under 24 V.S.A. § 1535 abatement of a fee assessed under this section.

(h) Education and outreach. The Department shall hold educational meetings or prepare education materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY  
RECORDED

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Statewide Water Quality fee assessed under section 10502 of this title; collector's deed, \$30.00; which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

Sec. 40. REPEAL OF STATEWIDE WATER QUALITY FEE

32 V.S.A. § 10502 (Water Quality Legacy fee) shall be repealed on July 1, 2026.

\* \* \* Appropriations of Agency Staff \* \* \*

Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD  
AND MARKETS STAFF

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$786,000.00 in fiscal year 2016 for the purpose of hiring eight positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Commissioner of Taxes; Statewide Water Quality Fee Report\*\*\*

Sec. 43. COMMISSIONER OF TAXES REPORT ON IMPLEMENTATION  
OF THE STATEWIDE WATER QUALITY FEE

On or before January 15, 2016, the Commissioner of Taxes shall submit to the Senate Committee on Finance and the House Committee on Ways and Means a report regarding implementation of the Statewide Water Quality fee established under 32 V.S.A. chapter 245. The report shall include:

(1) a summary of implementation, collection, and enforcement of the Statewide Water Quality fee by municipalities and the Department of Taxes;

(2) any identified issues in assessment, collection, and enforcement of the Statewide Water Quality fee, and proposed recommendations for addressing each issue.

(3) after consultation with the Secretary of Natural Resources:

(A) proposed alternatives for reducing the amount of the Statewide Water Quality fee to be paid by owners of parcels who: provide treatment that exceeds the minimum regulatory requirement; utilize innovative approaches to the management of stormwater; or pay a similar fee assessed at the municipal level; and

(B) a recommendation of whether the amount of the Statewide Water Quality fee established under 32 V.S.A. chapter 245 should be adjusted for individual parcels or parcel types due to presence of impervious surface on the parcel or due to the water quality impacts of the parcel;

(4) a recommendation as to whether and how the Statewide Water Quality fee should be collected from parcels that are exempt from taxation under 32 V.S.A. § 3802;

(5) proposed legislation necessary to implement any of the recommendations submitted by the Commissioner of Taxes in the report required by this section; and

(6) any other information that the Commissioner of Taxes determines is relevant to the implementation of the Statewide Water Quality fee.

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided

that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

and by striking out subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Third: By adding a new section to be Sec. 5a after the reader assistance \* \* \* Agricultural Water Quality; Permit Fees \* \* \* and before Sec. 6 to read:

Sec. 5a. 6 V.S.A. § 4803 is added to read:

§ 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

(a) There is created an Agricultural Water Quality Special Fund to be administered by the Secretary of Agriculture, Food and Markets. Fees collected under this chapter, including fees for permits or certifications issued under the chapter, shall be deposited in the Fund.

(b) The Secretary may use monies deposited in the Fund for the Secretary's implementation and administration of agricultural water quality programs or requirements established by this chapter, including to pay salaries of Agency staff necessary to implement the programs and requirements of this chapter.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned by the Fund shall be retained in the Fund from year to year.

Fourth: In Sec. 6, 6 V.S.A. § 4851 (large farm fee), by striking out subsection (i) in its entirety and inserting in lieu thereof the following:

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Fifth: In Sec. 7, 6 V.S.A. § 4858 (medium farm fee), by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Sixth: In Sec. 8, 6 V.S.A. § 324 (commercial feed fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees collected, ~~\$85.00 of each collected fee~~, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Seventh: By striking out Sec. 10 (fertilizer fee) in its entirety and inserting in lieu thereof the following:

Sec. 10. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this ~~state~~ State. Each report shall be accompanied with payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state.~~ [Repealed.]

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming

materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by section 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all nonagricultural fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$30.00 per ton of nonagricultural fertilizer for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing any fertilizer in the State shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment of the fees under this section and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute nonagricultural fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title.

Eighth: In Sec. 11, 6 V.S.A. § 918 (economic poisons fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each product registered, and ~~\$110.00~~ of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The annual registration year shall be from December 1 to November 30 of the following year.

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

\* \* \* Effective Dates\* \* \*

Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Legacy Fund) and 38 (Statewide Water Quality fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

(Committee vote: 4-2-1)

**H. 117.**

An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service.

**Reported favorably with recommendation of proposal of amendment by Senator MacDonald for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Division for Telecommunications and Connectivity \* \* \*

Sec. 1. REPEAL

3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division for Connectivity), 14 (creation of positions; transfer; reemployment rights), and 30(a)(2) and (b) (statutory revision authority regarding the Division for Connectivity) are repealed.

Sec. 2. 30 V.S.A. § 1 is amended to read:

§ 1. COMPOSITION OF DEPARTMENT

(a) ~~The department of public service~~ Department of Public Service shall consist of the ~~commissioner of public service, a director for regulated utility~~

~~planning, a director for public advocacy, a director for energy efficiency,~~  
Commissioner of Public Service, a Director for Regulated Utility Planning,  
a Director for Public Advocacy, a Director for Energy Efficiency, a Director  
for Telecommunications and Connectivity, and such other persons as the  
~~commissioner~~ Commissioner considers necessary to conduct the business of  
the ~~department~~ Department.

(b) The ~~commissioner of public service~~ Commissioner shall be appointed  
by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate.  
The ~~commissioner of public service~~ Commissioner shall serve for a term of  
two years beginning on February 1 of the year in which the appointment is  
made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the  
~~governor~~ Governor. The ~~directors for regulated utility planning, for energy~~  
~~efficiency and for public advocacy~~ Directors for Regulated Utility Planning,  
for Public Advocacy, and for Energy Efficiency shall be appointed by the  
~~commissioner~~ Commissioner. The Director for Telecommunications and  
Connectivity shall be appointed by the Commissioner in consultation with the  
Secretary of Administration.

(c) The ~~director for public advocacy~~ Directors for Public Advocacy and for  
Telecommunications and Connectivity may employ, with the approval of the  
~~commissioner~~ Commissioner, legal counsel and other experts, and clerical  
assistance, and the ~~directors of regulated utility planning and energy efficiency~~  
Directors for Regulated Utility Planning and for Energy Efficiency may  
employ, with the approval of the ~~commissioner~~ Commissioner, experts and  
clerical assistance.

Sec. 3. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible  
planning agency of the State for the purpose of obtaining for all consumers in  
the State stable and predictable rates and a technologically advanced  
telecommunications network serving all service areas in the State. The  
Department shall be responsible for the provision of plans for meeting  
emerging trends related to telecommunications technology, markets, financing,  
and competition.

(b) The Department shall prepare a Telecommunications Plan for the State.  
The Department of Innovation and Information, ~~the Division for Connectivity~~  
~~and the Agency of Commerce and Community Development,~~ and the Agency  
of Transportation shall assist the Department of ~~Public Service~~ in preparing the  
Plan. The Plan shall be for a ten-year period and shall serve as a basis for State  
telecommunications policy. Prior to preparing the Plan, the Department shall

prepare:

(1) an overview, looking ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development ~~and the Division for Connectivity~~, to determine what telecommunications services are needed now and in the succeeding ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the Department of Innovation and Information and the ~~Division for Connectivity~~ Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, ~~the Division for Connectivity~~, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in

preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review a the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a Joint Resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 4. 30 V.S.A. § 202e is added to read:

§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY

(a) Among other powers and duties specified in this title, the Department of Public Service, through the Division for Telecommunications and Connectivity, shall promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State to reflect the rapid evolution in the capabilities of available broadband and mobile telecommunications technologies, the capabilities of broadband and mobile telecommunications services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development, funding, and implementation of open access telecommunications infrastructure.

(b) To achieve the goals specified in subsection (a) of this section, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State;

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices;

(5) identify the types and locations of infrastructure and services needed to carry out the goals stated in subsection (a) of this section;

(6) formulate, with the advice and assistance of the Telecommunications and Connectivity Board and with input from the Regional Planning Commissions, an action plan that conforms with the State Telecommunications Plan, as updated and revised, and carries out the goals stated in subsection (a) of this section;

(7) coordinate the agencies of the State to make public resources available to support the extension of broadband and mobile telecommunications infrastructure and services to all unserved and underserved areas;

(8) support and facilitate initiatives to extend the availability of broadband and mobile telecommunications, and promote development of the infrastructure that enables the provision of these services;

(9) work cooperatively with the Agency of Transportation and the Department of Buildings and General Services to assist in making available transportation rights-of-way and other State facilities and infrastructure for telecommunications projects in conformity with applicable federal statutes and regulations; and

(10) receive all technical and administrative assistance as deemed necessary by the Director for Telecommunications and Connectivity.

(c)(1) The Director may request from telecommunications service providers voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection, and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose provider-specific information it has received under this subsection to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(d) The Division shall only promote the expansion of broadband services that offer actual speeds that meet or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director, with the advice and assistance of the Telecommunications and Connectivity Board, shall submit a report of its activities pursuant to this section and duties of title 30 V.S.A. subsection 202f (f) for the preceding fiscal year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (b)(6) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by broadband that has a download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a

download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or as defined by the FCC in its annual report to Congress required by section 706 of the Telecommunications Act of 1996, whichever is higher, and the cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, and the cost estimates for providing such service to unserved areas; and

(4) if monetarily feasible, the areas served and the areas not served by wireless communications service, and cost estimates for providing such service to unserved areas.

Sec. 5. 30 V.S.A. § 202f is added to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created a Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, seven voting and one nonvoting, selected as follows:

(1) the State Treasurer or designee;

(2) the Secretary of Commerce and Community Development or designee;

(3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and

(4) the Secretary of Transportation or designee, who shall be a nonvoting member.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a Chair and Vice Chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or

cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years, and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Service Board on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.

(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan.

(3) annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.

(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.

(5) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunication and connectivity projects.

(g) The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

(h) On September 15, 2015, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. On or before January 1 of each year, the Commissioner, after consulting with the Connectivity Advisory Board, shall recommend to the relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.

(i) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

(j) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

(k) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL PROVISIONS

(a) Up to three additional exempt full-time positions are created within the Division for Telecommunications and Connectivity, as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch available to be transferred and converted to the new positions in the Division for Telecommunications and Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority (VTA) employed by the VTA on the day immediately preceding the effective date of this act who do not obtain a position in the Division for Telecommunications and Connectivity pursuant to subsection (a) of this section shall be entitled to the same reemployment or recall rights available to nonmanagement State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

(d) The Department of Public Service shall assume possession and responsibility for all assets and liabilities of the VTA.

(e) The VTA shall not enter into any new contracts without the approval of the Commissioner of Public Service.

\* \* \* Universal Service Fund \* \* \*

Sec. 7. 30 V.S.A. § 7503 is amended to read:

§ 7503. FISCAL AGENT

(a) A fiscal agent shall be selected to receive and distribute funds under this chapter.

(b) The fiscal agent shall be selected by the ~~Public Service Board~~ Commissioner of Public Service after competitive bidding. No telecommunications service provider shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(c) In order to finance grants and other expenditures that have been approved by the ~~Public Service Board~~ Commissioner of Public Service, the fiscal agent may borrow money from time to time in anticipation of receipts

during the current fiscal year. No such note shall have a term of repayment in excess of one year, but the fiscal agent may pledge its receipts in the current and future years to secure repayment. Financial obligations of the fiscal agent are not guaranteed by the State of Vermont.

(d) The fiscal agent shall be audited annually by a certified public accountant in a manner determined by and under the direction of the ~~Public Service Board~~ Commissioner of Public Service.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any telecommunications service provider in this State. The ~~Public Service Board~~ Commissioner of Public Service may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7511 of this chapter.

#### Sec. 8. REPEAL

30 V.S.A. § 7515a (additional program support for Executive Branch activities) is repealed.

Sec. 9. 30 V.S.A. § 7511 is amended to read:

#### § 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the ~~Public Service Board~~ Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

~~(1)(A)~~ (A) to pay costs payable to the fiscal agent under its contract with the ~~Board~~ Commissioner;

~~(2)(B)~~ (B) to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

~~(3)(C)~~ (C) to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

~~(4)(D)~~ (D) to support Enhanced-911 services in the manner provided by section 7514 of this title; and

~~(5)(E)~~ (E) to support the Connectivity Fund established in section 7516 ~~of this chapter, and of this title;~~ and

(2) For fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the

Connectivity Board.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~Board~~ Commissioner shall ~~conduct an expedited proceeding to~~ allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 9a. FUNDING FOR CONNECTIVITY PERSONNEL; GROSS RECEIPTS TAX

Not later than January 15, 2016, the Commissioner shall determine whether the revenues raised from the existing gross receipts tax on public service companies, 30 V.S.A. § 22, is sufficient to finance the personnel and administrative costs associated with the Connectivity Initiative, beginning in fiscal year 2017. If the Commissioner determines the revenues are not sufficient for this purpose, he or she shall recommend to the General Assembly either:

(1) a new rate of tax applicable to one or more categories of public service companies, as he or she deems necessary and appropriate; or

(2) a proposal to fund such personnel and administrative costs with monies in the Connectivity Fund.

Sec. 10. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned equally as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative ~~referenced in this section.~~

Sec. 11. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

(b) The Public Service Board, after review of a petition of a company holding a certificate of public good to provide telecommunications service in Vermont, and upon finding that the company meets all requirements for designation as an “eligible telecommunications carrier” as defined by the FCC,

may designate the company as a Vermont-eligible telecommunications carrier (VETC).

(c) The supported services a designated VETC must provide are voice telephony services, as defined by the FCC, and broadband Internet access, directly or through an affiliate. A VETC receiving support under this section shall use that support for capital improvements in high cost areas, as defined in subsection (f) of this section, to build broadband capable networks.

(d) The Board may designate multiple VETCs for a single high cost area, but each designated VETC shall:

(1) offer supported services to customers at all locations throughout the ~~service~~ high cost area or areas for which it has been designated; and

(2) for its voice telephone services, meet service quality standards set by the Board.

(e) A VETC shall receive support as defined in subsection (i) of this section from the fiscal agent of the Vermont Universal Service Fund for each telecommunications line in service or service location, whichever is greater in number, in each high cost area it services. Such support may be made in the form of a net payment against the carrier's liability to the Fund. If multiple VETCs are designated for a single area, then each VETC shall receive support for each line it has in service.

(f) As used in this section, a Vermont telephone exchange is a "high cost area" if the exchange is served by a rural telephone company, as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a regional bell operating company (RBOC), as defined by the FCC, or of a successor company to an RBOC. An exchange is not a high cost area if the Public Service Board finds that the supported services are available to all locations throughout the exchange from at least two service providers.

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than 4 Mbps download and 1 Mbps upload in each high cost area it serves within five years of designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

(h) The Public Service Board may modify the build out requirements of subsection (d) of this section as it relates to broadband Internet access to be the geographic area that could be reached using one-half of the funds to be received over five years. A VETC may seek such waiver of the build out

requirements ~~in subsection (e)~~ within one year of designation and shall demonstrate the cost of meeting broadband Internet access requirements on an exchange basis and propose an alternative build out plan.

(i) The amount of the monthly support under this section shall be the pro rata share of available funds ~~as provided in subsection (e) of this section~~ based on the total number of incumbent local exchange carriers in the State and reflecting each carrier's lines in service or service locations in its high-cost area or areas, as determined under subsection (e) of this section. If an incumbent local exchange carrier does not petition the Board for VETC designation, or is found ineligible by the Board, the share of funds it otherwise would have received under this section shall be used to support the Connectivity Initiative established in section 7515b of this chapter.

(j) The Public Service Board shall adopt by rule standards and procedures for ensuring projects funded under this section are not competitive overbuilds of existing wired telecommunications services.

(k) Each VETC shall submit certification that it is meeting the requirements of this section and an accounting of how it expended the funds received under this section in the previous calendar year, with its annual report to the Department of Public Service. For good cause shown, the Public Service Board may investigate submissions required by this subsection and may revoke a company's designation if it finds that the company is not meeting the requirements of this subsection.

Sec. 12. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~4~~ 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, "unserved" means a location having access to only satellite or dial-up Internet service and "underserved" means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies ~~in this Fund~~ from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband mapping data. The Department annually shall solicit proposals from service providers, ~~the Vermont Telecommunications Authority, and the Division for Connectivity~~ to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;
- (4) whether the proposal would use the best available technology that is economically feasible;
- (5) the availability of service of comparable quality and speed; and
- (6) the objectives of the State's Telecommunications Plan.

\* \* \* 248a; Meteorological Station Conversions \* \* \*

Sec. 13. 30 V.S.A. § 246(e) is added to read:

(e) Notwithstanding any contrary provisions of this section, the holder of a certificate of public good for a constructed meteorological station may apply under section 248a of this title or 10 V.S.A. chapter 151 to convert the station to a wireless telecommunications facility, provided the application is filed at least 90 days before the expiration of the certificate for the station. Any such application shall constitute a new application to be reviewed under the facts and circumstances as they exist at the time of the review.

\* \* \* Agency of Transportation; State-owned Rights-of-Way; Leasing;  
Telecommunications Providers \* \* \*

Sec. 14. 19 V.S.A. § 26a is amended to read:

§ 26A. DETERMINATION OF RENT TO BE CHARGED FOR LEASING  
OR LICENSING STATE-OWNED PROPERTY UNDER THE  
AGENCY'S JURISDICTION

\* \* \*

(b) Unless otherwise required by federal law, the Agency shall assess, collect, and deposit in the Transportation Fund a reasonable charge or payment with respect to leases or licenses for access to or use of State-owned rights-of-

way by providers of broadband or wireless communications facilities or services. ~~The Vermont Telecommunications Authority, established by 30 V.S.A. chapter 91, Agency~~ may waive such charge or payment in whole or in part if the provider offers to provide comparable value to the State so as to meet the public good as determined by the Authority Agency and the Department of Public Service. For the purposes of this section, the terms “comparable value to the State” shall be construed broadly to further the State’s interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the Authority Agency may not exceed five years. Thereafter, the Authority Agency may extend any waiver granted for an additional period not to exceed five years if the Authority Agency makes affirmative written findings demonstrating that the State has received and will continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so. ~~The Authority, in consultation with the Agency of Transportation, shall adopt rules under 3 V.S.A. chapter 25 to implement this section. For the purpose of establishing rules to implement 30 V.S.A. chapter 91 by July 1, 2007, or as soon thereafter as possible, the authority is authorized to adopt initial rules under this section using emergency rulemaking procedures of 3 V.S.A. chapter 25. Any emergency rules initially adopted may remain in effect longer than 120 days, but in no event shall they remain in effect for more than six months.~~

\* \* \*

\* \* \* Retransmission Fees; Reporting \* \* \*

Sec. 15. 30 V.S.A. § 518 is amended to read:

§ 518. RETRANSMISSION FEES; REPORTING

(a) Purpose. The purpose of this section is to provide the Attorney General with information necessary to investigate certain conduct within the cable and broadcast network industries to determine whether unfair methods of competition ~~or unfair or deceptive acts or practices~~ are occurring in violation of 9 V.S.A. chapter 63.

(b) Reporting. Annually, beginning on January 1, 2015, each commercial broadcasting station doing business with a Vermont cable company shall report to the Attorney General any fees charged for program content retransmitted on the cable network under a retransmission consent agreement entered into pursuant to 47 U.S.C. § 325, for the prior calendar year.

(c) Investigations. The Attorney General may investigate retransmission fees charged by commercial broadcasting stations, pursuant to his or her investigatory powers established under 9 V.S.A. chapter 63.

(d) Public disclosure. The information received ~~under this section~~ by the Attorney General under subsection (b) of this section shall be disclosed to the public at a time and in a manner determined by the Attorney General to be consistent with and permitted by the Public Records Act and relevant provisions of federal law shall be kept confidential and is exempt from public inspection and copying under the Public Records Act, unless otherwise ordered by a court.

(e) Enforcement. A violation of this section constitutes ~~an unfair and deceptive act and practice in commerce~~ unfair competition under 9 V.S.A. § 2453.

(f) The Attorney General may adopt rules he or she deems necessary to implement this section. The rules, as well as any finding of unfair ~~or deceptive practices~~ competition with regard to retransmission consent fees, shall not be inconsistent with the rules, regulations, and decisions of the Federal Communications Commission and the federal courts interpreting the Communications Act of 1934, as amended.

\* \* \* E-911 System; Operations; Savings \* \* \*

#### Sec. 16. E-911 OPERATIONS AND SAVINGS

(a) The General Assembly finds as follows:

(1) 2014 Acts and Resolves No. 190, Sec. 24 directed the Secretary of Administration to submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to either the Division for Connectivity, the Department of Public Service, or the Department of Public Safety.

(2) The plan was to include budgetary recommendations, striving to achieve annual operational savings of at least \$300,000.00, as well as enhanced coordination and efficiency, and reduction in operational redundancies.

(3) On December 15, 2014, the Secretary of Administration made a recommendation to the General Assembly to transfer responsibilities and powers of the Enhanced 911 Board to the Department of Public Safety. In the report, the Secretary estimated that such transfer could be expected to save between \$210,000.00 and \$350,000.00 each year on an ongoing basis by virtue of personal services savings.

(4) During the 2015 legislative session, a representative of the Enhanced 911 Board testified before the Senate Committee on Appropriations that the Board's current, administrative expenses could be reduced by approximately \$300,000.00.

(b) By July 1, 2015, the administration of the Vermont Enhanced 911

system shall be transferred to the Department of Public Safety, as provided in Secs. 17, 18, and 19 of this act; or, if such transfer does not occur, then in fiscal year 2016, not less than \$300,000.00 shall be transferred from the Enhanced 911 Fund to the General Fund to offset E-911-eligible costs incurred by the Department of Public Safety, and not less than one, full-time employee position in the Enhanced 911 system shall be eliminated.

Sec. 17. 20 V.S.A. § 1811 is amended to read:

§ 1811. CREATION OF DEPARTMENT

There is ~~hereby~~ created a ~~department of public safety~~ Department of Public Safety for the purpose of consolidating certain existing police and investigating agencies, to promote the detection and prevention of crime generally, ~~and~~ to participate in searches for lost or missing persons, ~~and~~ to assist in case of statewide or local disasters or emergencies, and to administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 18. 20 V.S.A. § 1872 is amended to read:

§ 1872. DUTIES OF COMMISSIONER GENERALLY

The ~~commissioner shall be~~ Commissioner is the chief enforcement officer of all the statutes, rules, and regulations pertaining to the law of the road and the display of lights on vehicles. In addition, the ~~commissioner~~ Commissioner shall supervise and direct the activities of the ~~state police~~ State Police and of the Vermont ~~criminal information center~~ Crime Information Center and, as fire marshal, ~~be responsible for enforcing~~ shall enforce the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training. In addition, the Commissioner shall administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 19. 30 V.S.A. chapter 87 is amended to read:

CHAPTER 87. ENHANCED 911; EMERGENCY SERVICES

§ 7051. DEFINITIONS

As used in this chapter:

(1) “Automatic location identification” or “ALI” means the system capability to identify automatically the geographical location of the electronic device being used by the caller to summon assistance and to provide that location information to an appropriate device located at any public safety answering point for the purpose of sending emergency assistance.

(2) ALI “database” means a derivative, verified set of records ~~which~~ that contain at a minimum a telephone number and location identification for each

unique building or publicly used facility within a defined geographic area in Vermont.

(3) “Automatic number identification” or “ANI” means the system capability to identify automatically the calling telephone number and to provide a display of that number at any public safety answering point.

(4) “Board” means the Vermont Enhanced 911 Advisory Board established under section 7053 of this ~~title~~ chapter.

(5) “Caller” means a person or an automated device calling on behalf of a person.

(6) “Commissioner” means the Commissioner of Public Safety.

(7) “Director” means the Director for statewide Enhanced 911.

~~(7)~~(8) “Emergency call system” or “Enhanced 911 system” means a system consisting of devices with the capability to determine the location and identity of a caller that initiates communication for the purpose of summoning assistance in the case of an emergency. In most cases summoning assistance will occur when a caller dials the digits 9-1-1 on a telephone, mobile phone, or other IP-enabled service, or by a communication technology designed for the purpose of summoning assistance in the case of an emergency.

~~(8)~~(9) “Emergency services” means fire, police, medical, and other services of an emergency nature as identified by the ~~Board~~ Commissioner.

~~(9)~~(10) “IP-enabled service” means a service, device, or application that makes use of Internet protocol, or IP, and ~~which~~ that is capable of entering the digits 9-1-1 or otherwise contacting the ~~emergency~~ Enhanced 911 system. IP-enabled service includes voiceover IP and other services, devices, or applications provided through or using wire line, cable, wireless, ~~or~~ satellite, or other facilities.

~~(10)~~(11) “Municipality” means any city, town, incorporated village, unorganized town, gore, grant, or other political subdivision of the State.

~~(11)~~(12) “Other methods of locating caller” means those commercially available technologies designed to provide the location information of callers when a call is initiated to access emergency 911 services regardless of the type of device ~~that is~~ used.

~~(12)~~(13) “Public safety answering point” means a facility with the capability to receive emergency calls, operated on a 24-hour basis, assigned the responsibility of receiving 911 calls and dispatching, transferring, or relaying emergency 911 calls to other public safety agencies or private safety agencies.

~~(13)~~(14) “Selective routing” means a telecommunications switching

system that enables all 911 calls originating from within a defined geographical region to be answered at a ~~pre-designated~~ pre-designated public service answering point.

§ 7052. VERMONT ENHANCED 911 ADVISORY BOARD

(a) The Vermont Enhanced 911 Advisory Board is established to ~~develop, implement and supervise the operation~~ make recommendations to the Commissioner regarding the development and implementation of the statewide Enhanced 911 system.

(b) The Board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont ~~State sheriff's association~~ Sheriff's Association; one municipal law enforcement officer elected by the ~~chiefs of police association of Vermont~~ Association of Chiefs of Police; one official of a municipality; a firefighter; an emergency medical services provider; a Department of Public Safety representative; and three members of the public. Board members shall be appointed by the Governor to three-year terms, except that the Governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing Board members, the Governor shall give due consideration to the different geographical regions of the State, and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the Governor.

(c) Members who are not State employees or not otherwise compensated in the course of their employment shall receive per diem compensation and expense reimbursement for meetings in accordance with the provisions of 32 V.S.A. § 1010. Members who receive per diem shall receive compensation for no more than 12 meetings per year.

(d) The Governor shall annually appoint a member to serve as Board chair and a member to serve as Board vice chair. The Board shall hold at least four regular meetings a year. Meetings of the Board may be held at any time or place within Vermont upon call of the Chair or a majority of the members, after reasonable notice to the other members and shall be held at such times and places as in the judgment of the Board will best serve the convenience of all parties in interest. The Board shall adopt rules and procedures with respect to the conduct of its meetings and other affairs. Membership on the Board does not constitute the holding of an office for any purpose, and members of the Board shall not be required to take and file oaths of office before serving on the Board. A member of the Board shall not be disqualified from holding any public office or employment, and shall not forfeit any office or employment, by reason of ~~their~~ his or her appointment to the ~~board~~ Board, notwithstanding any statute, ordinance, or charter to the contrary.

(e) The Board shall ~~appoint~~ recommend, subject to the approval of the ~~Governor~~ Commissioner, an Executive Director who shall hold office at the pleasure of the ~~Board~~ Commissioner. He or she shall perform such duties as may be assigned by the ~~Board~~ Commissioner. The Executive Director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation. ~~The Executive Director may, with the approval of the Board, hire employees, agents, and consultants and prescribe their duties.~~

§ 7053. BOARD COMMISSIONER; RESPONSIBILITIES AND POWERS

(a) The ~~Board shall be the single governmental agency~~ Commissioner is responsible for statewide ~~enhanced~~ Enhanced 911. To the extent feasible, the ~~Board~~ Commissioner shall consult with the Agency Secretary of Human Services, the ~~Department of Public Safety, the Department~~ Commissioner of Public Service, and local community service providers on the development of policies, system design, standards, and procedures. The ~~Board~~ Commissioner shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) the technical and operational standards for public safety answering points;

(2) the system ~~data-base~~ database, standards and procedures for developing and maintaining the ~~data-base~~ database. The system ~~data-base~~ database shall be the property of the ~~Board~~ Department of the Public Safety;

(3) statewide, locatable means of identifying customer location, such as addressing, geo-coding, or other methods of locating the caller; and

(4) standards and procedures to ensure system and ~~data-base~~ database security.

~~(b) (d) [Repealed.]~~

~~(e)~~(b) The ~~Board~~ Commissioner is authorized to:

(1) ~~to~~ make or cause to be made studies of any aspect of the ~~enhanced~~ Enhanced 911 system, including service, operations, training, ~~data-base~~ database development, and public awareness;

(2) ~~to~~ accept and use in the name of the ~~state~~ State, subject to review and approval by the ~~joint fiscal committee~~ Joint Fiscal Committee, any and all donations or grants, both real and personal, from any governmental unit or public agency or from any institution, person, firm, or corporation, consistent with the rules established by the Board and the purpose or conditions of the donation or grant; and

(3) to exercise all powers and conduct such activities as are necessary in carrying out the ~~Board's~~ Commissioner's responsibilities in fulfilling the purposes of this chapter.

~~(f)~~(c) The ~~Board~~ Commissioner shall adopt such rules as are necessary to carry out the purposes of this chapter, including, where appropriate, imposing reasonable fines or sanctions against persons that do not adhere to applicable ~~board~~ rules.

~~(g), (h) [Repealed.]~~

#### § 7054. FUNDING

(a) The Enhanced 911 Fund is created as a special fund subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. Balances in the Fund on June 30 of each year shall carry forward and shall not revert to the General Fund.

(b) The General Assembly shall annually review and approve an amount to be transferred by the universal service fiscal agent to the Enhanced 911 Fund and shall appropriate some or all of that amount for expenditures related to providing Enhanced 911 services.

(c) Into the Enhanced 911 Fund shall be deposited monies transferred from the universal service fiscal agent, any State or federal funds appropriated to the Fund by the General Assembly, any taxes specifically required by law to be deposited into the Fund, and any grants or gifts received by the State for the benefit of the Enhanced 911 system.

(d) Disbursements from the Enhanced 911 Fund shall be made by the State Treasurer on warrants drawn by the ~~Director~~ Commissioner solely for the purposes specified in this chapter. The ~~Director~~ Commissioner may issue such warrants pursuant to contracts or grants.

(e) Disbursements may be made for:

(1) nonrecurring costs, including establishing public safety answering points, purchasing network equipment and software, developing ~~data-bases~~ databases, and providing for initial training and public education;

(2) recurring costs, including network access fees and other telephone charges, software, equipment, ~~data-base~~ database management and improvement, public education, ongoing training and equipment maintenance;

(3) expenses of the Board and the Department of Public ~~Service~~ Safety incurred under this chapter;

(4) costs solely attributable to statewide public safety answering point operations; and

(5) costs attributable to demonstration projects designed to enhance the delivery of ~~emergency~~ Enhanced 911 and other emergency services.

(f) Disbursements may not be made for:

(1) personnel costs for emergency dispatch answering points;

(2) construction, purchase, renovation, or furnishings for buildings at emergency dispatch points;

(3) two-way radios; and

(4) vehicles and associated equipment.

#### § 7055. TELECOMMUNICATIONS COMPANY COORDINATION

(a) Every telecommunications company under the jurisdiction of the Public Service Board offering access to the public network shall make available, in accordance with rules adopted by the Public Service Board, the universal emergency telephone number 911 for use by the public in seeking assistance from fire, police, medical, and other emergency service providers through a public safety answering point.

(b) Every local exchange telecommunications provider shall provide the ANI and any other information required by rules adopted under section 7053 of this ~~title~~ chapter to the ~~Board~~ Commissioner, or to any administrator of the Enhanced 911 database, for purposes of maintaining the Enhanced 911 database. Each such provider ~~shall be~~ is responsible for updating the information at a frequency specified by such rules. All persons receiving confidential information under this section, as defined by the Public Service Board, shall use it solely for the purposes of providing ~~emergency~~ Enhanced 911 services, and shall not disclose such confidential information for any other purpose.

(c) Each local exchange telecommunications company, cellular company, and mobile or personal communications service company within the State shall designate a person to coordinate with and provide all relevant information to the ~~E-911 Board~~ Commissioner and the Public Service Board ~~in~~ for carrying out the purposes of the chapter.

(d) Wire line and nonwire cellular carriers certificated to provide service in the ~~state~~ State shall provide ANI signaling ~~which~~ that identifies geographical location as well as cell site address for cellular 911 calls. Personal communications networks and any future mobile or personal communications systems ~~shall also be~~ are also required to identify the location of the caller. The telephone company shall provide ANI signaling ~~which~~ that identifies the name of the carrier and identify the type of service as cellular, mobile, or personal communications as part of the ALI along with a screen message that

advises the call answerer to verify the location of the reported emergency. Telecommunication providers of mobile wireless, IP-enabled, and other communication services ~~which~~ that have systems with the capability to send data related to the location of the caller with the call or transmission instead of relying on location data otherwise contained in the ALI database shall provide this data with calls or transmissions for the sole purpose of enabling the ~~emergency~~ Enhanced 911 system to locate an individual seeking emergency services. Location data shall be provided in accordance with relevant national standards for next generation ~~9-1-1~~ 911 technology.

(e) Each local exchange telecommunications provider in the State shall file with the Public Service Board tariffs for each service element necessary for the provision of ~~enhanced~~ Enhanced 911 services. The Public Service Board shall review each company's proposed tariff, and shall ensure that tariffs for each necessary basic service element are effective within six months of filing. The ~~Department~~ Commissioner of Public Service, by rule or emergency rule, may establish the basic service elements that each company must provide for in tariffs. Such tariffs must be filed with the Public Service Board within 60 days after the basic service elements are established by the ~~Department~~ Commissioner of Public Service.

§ 7056. MUNICIPAL COOPERATION; ENHANCED ANI/ALI CAPABILITY

(a) Each municipality, by its legislative body, may participate in the Enhanced 911 system. 3 Municipalities choosing to participate shall identify all building locations and other public and private locations frequented by the public and shall cooperate in the development and maintenance of the necessary databases. The ~~Board~~ Commissioner shall work with municipalities to identify nonmonetary incentives designed to streamline and reduce the administrative burdens imposed by this requirement. Any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the ~~Board~~ Commissioner.

(b) After the effective date of this chapter, any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the ~~Board~~ Commissioner.

~~(e)-(e) [Repealed.]~~

§ 7057. PRIVATELY OWNED TELEPHONE SYSTEMS

Any privately owned telephone system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, and updates to Enhanced 911 databases under rules adopted by the ~~Board~~ Commissioner. The ~~Board~~ Commissioner

may waive the provisions of this section for any privately owned telephone system, provided that in the judgment of the ~~Board~~ Commissioner, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted ~~by the Board~~ by rule by the Commissioner.

#### § 7058. PAY TELEPHONES

Each provider or other owner or lessee of a pay station telephone shall permit a caller to dial 911 without first inserting a coin or paying any other charge. The provider or other owner or lessee shall prominently display on each notice advising callers to dial 911 in an emergency and that deposit of a coin is not required.

#### § 7059. CONFIDENTIALITY OF SYSTEM INFORMATION

(a)(1) A person shall not access, use, or disclose to any other person any individually identifiable information contained in the system database created ~~under subdivision 7053(a)(4) of this title~~ subsection 7053(a) of this chapter, including any customer or user ALI or ANI information, except in accordance with rules adopted by the ~~Board~~ Commissioner ~~and~~ for the purpose of:

- (A) responding to emergency calls;
- (B) system maintenance and quality control under the direction of the Director;
- (C) investigation, by law enforcement personnel, of false or intentionally misleading reports of incidents requiring emergency services;
- (D) assisting in the implementation of a statewide emergency notification system;
- (E) provision of emergency dispatch services by public safety answering points in other states that are under contract with local law enforcement and emergency response organizations; or
- (F) coordinating with ~~state~~ State and local service providers for the provision of emergency dispatch services that serve individuals with a disability, elders, and other populations with special needs.

(2) ~~No person shall~~ A person shall not use customer ALI or ANI information to create special 911 databases for any private purpose or any public purpose unauthorized by this chapter.

(b) Notwithstanding the provisions of subsection (a) of this section to the contrary, customer ALI or ANI information obtained in the course of responding to an emergency call may be included in an incident report

prepared by emergency response personnel, in accordance with rules adopted by the ~~Board~~ Commissioner.

(c) Information relating to customer name, address, and any other specific customer information collected, organized, acquired, or held by the ~~board~~ Department of Public Safety, the entity operating a public safety answering point or administering the Enhanced 911 database, or emergency service provider is not public information and is exempt from ~~disclosure under 4 V.S.A. chapter 5, subchapter 3~~ public inspection and copying under the Public Records Act.

(d) If a municipality has adopted conventional street addressing for Enhanced 911 addressing purposes, the municipality shall ensure that an individual who so requests will not have his or her street address and name linked in a municipal public record, but the individual shall be required to provide a mailing address. The request required by this subsection shall be in writing and shall be filed with the municipal clerk. Requests under this subsection shall be confidential and exempt from public inspection and copying under the Public Records Act. A form shall be prepared by the ~~Board~~ Commissioner and made generally available to the public by which the confidentiality option established by this subsection may be exercised.

(e) Notwithstanding any provision of law to the contrary, no person acting on behalf of the State of Vermont or any political subdivision of the ~~state~~ State shall require an individual to disclose his or her Enhanced 911 address, provided that the individual furnishes his or her alternative mailing address.

#### § 7060. LIMITATION OF LIABILITY

~~No person shall~~ A person shall not be liable in any suit for civil damages ~~who~~ if he or she in good faith receives, develops, collects, or processes information for the Enhanced 911 database or develops, designs, adopts, establishes, installs, participates in, implements, maintains, or provides access to telephone, mobile, or IP-enabled service for the purpose of helping persons obtain emergency assistance in accordance with this chapter unless such action constitutes gross negligence or an intentional tort. In addition, no provider of telephone, mobile, or other IP-enabled service or a provider's respective employees, directors, officers, assigns, affiliates, or agents shall be liable for civil damages in connection with the release of customer information to any governmental entity, including any public safety answering point, as required under this chapter.

\* \* \* Communications Union Districts \* \* \*

Sec. 20. 30 V.S.A. chapter 82 is added to read:

## CHAPTER 82. COMMUNICATIONS UNION DISTRICT

### § 3051. FORMATION

(a) Two or more towns and cities may elect to form a communications union district for the delivery of communications services and the operation of a communications plant, which district shall be a body politic and corporate.

(b) A town or city electing to form a district under this chapter shall submit to the eligible voters of such municipality a proposition in substantially the following form: “Shall the Town of \_\_\_\_\_ enter into a communications union district to be known as \_\_\_\_\_, under the provisions of Chapter 82 of Title 30, Vermont Statutes Annotated?” at an annual or special meeting of such town or city.

(c) Additional towns or cities may be admitted to the district in the manner provided in section 3082 of this chapter.

(d) As used in this chapter:

(1) “Communications plant” means any and all parts of any communications system owned by the district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements thereto hereafter constructed or acquired, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. However, the term “communications plant” and any regulatory implications or any restrictions under this chapter regarding a “communications plant” shall not apply to facilities or portions of any communications facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such communications are merely an ancillary component.

(2) “Communications union district” or “district” means a communications union district formed under this chapter.

(3) “District member” or “member municipality” means a town or city that elects to form a communications union district under this chapter.

(4) “Governing board” or “board” means the governing board of the communications union district as established under this chapter.

### § 3052. DISTRICT COMPOSITION

A district formed under this chapter shall be composed of and include all of the lands and residents within a member municipality, and any other town or city subsequently admitted to the district as provided in this chapter except for

those towns and cities that withdraw as provided in this chapter. Registered voters in each member municipality are eligible to vote in all district meetings, but only district member representatives are eligible to vote in meetings of the district's governing board.

#### § 3053. CREATION; DURATION; NONCONTESTABILITY

(a) Following the organizational meeting called for in section 3060 of this chapter, the district's governing board shall cause to be filed with the Office of the Secretary of State a certificate attesting to the vote conducted under subsection 3051(b) of this chapter.

(b) A district formed under this chapter shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this chapter.

(c) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any communications union district created under this chapter after six months from the date of the recording in the Office of the Secretary of State of the certificate required by subsection (a) of this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of communications plant improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds. This section shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all communications union districts in this State and the validity of bonds issued or authorized for communications plant improvements, and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after expiration of the six-month period. The provisions of this subsection shall also pertain to financial contracts directly related to the district's bonding authority.

(d) To the extent a district constructs communications infrastructure with the intent of providing communications services, the district shall ensure that any and all losses from these services, or in the event these services are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the taxpayers of district members.

#### § 3054. DISTRICT POWERS

(a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject to the limitations and restrictions set forth in section 3056 of this chapter, a district created under this chapter shall have the power to:

(1) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of a communications plant for the delivery of communications services, as provided in 24 V.S.A. chapter 54, and all enactments supplementary and amendatory thereto;

(2) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(3) hire and fix the compensation and terms of employment of employees;

(4) sue and be sued;

(5) enter into contracts for any term or duration;

(6) contract with architects, engineers, financial and legal consultants, and others for professional services;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof;

(8) provide communications services for its members, the inhabitants thereof, and the businesses therein, and for such others as its facilities and obligations may allow, and further provided such service is not extended to a location in a municipality that is not contiguous with the town limits of a member district and that does not have access to broadband service from another provider;

(9) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(10) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(11) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(12) make recommendations for review and action to its members and other public agencies which perform functions within the region in which its members are located;

(13) exercise any other powers which are necessary or desirable for dealing with communications matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(14) enter into financing agreements as provided by 24 V.S.A. § 1789 and chapter 53, subchapter 2, or other provisions of law authorizing the pledge of net revenue, or alternative means of financing capital improvements and

operations;

(15) establish a budget to provide for the funding thereof out of general revenue of the district;

(16) appropriate and expend monies;

(17) establish sinking and reserve funds for retiring and securing its obligations;

(18) establish capital reserve funds and make appropriations thereto for communications plant improvements and the financing thereof;

(19) enact and enforce any and all necessary or desirable bylaws for the orderly conduct of its affairs for carrying out its communications purpose and for protection of its communications property;

(20) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(21) exercise all powers incident to a public corporation;

(22) adopt a name under which it shall be known and shall conduct business; and

(23) establish an effective date of its creation.

(b) Before a district may sell any service using a communications plant subject to Public Service Board jurisdiction and for which a certificate of public good is required under chapter 5 or 13 of this title, it shall obtain a certificate of public good for such service. Each such certificate of public good shall be nonexclusive and shall not contain terms or conditions more favorable than those imposed on existing certificate holders authorized to serve the municipality.

#### § 3055. COMMUNICATIONS PLANT; SITES

Each member shall make available for lease to the district one or more sites for a communications plant or components thereof within such member municipality.

#### § 3056. LIMITATIONS; TAXES; INDEBTEDNESS

(a) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not accept funds generated by a member's taxing or assessment power.

(b) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its members, without

specific authorization of the General Assembly.

(c) Notwithstanding any grant of authority in this chapter to the contrary, every issue of a district's notes and bonds shall be general obligations of the district payable only out of any revenues or monies of the district.

#### § 3057. BOARD AUTHORITY

The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs thereof shall be vested in a legislative body known as the governing board, except as specifically provided otherwise in this chapter.

#### § 3058. BOARD COMPOSITION

The district governing board shall be composed of one representative from each member and one or more alternates to serve in the absence of the designated representative.

#### § 3059. APPOINTMENT

Annually on or before the last Monday in April commencing in the year following the effective date of the district's creation, the legislative body of each member shall appoint a representative and one or more alternates to the governing board for one-year terms. Appointments of representatives and alternates shall be in writing, signed by the chair of the legislative body of the appointing member, and presented to the clerk of the district. The legislative body of a member, by majority vote, may replace its appointed representative or alternate at any time and shall promptly notify the district clerk of such replacement.

#### § 3060. ORGANIZATIONAL MEETING

Annually, on the second Tuesday in May following the appointments contemplated in section 3059 of this chapter, the board shall hold its organizational meeting. At such meeting, the board shall elect from among its appointed representatives a chair and a vice chair, each of whom shall hold office for one year and until his or her successor is duly elected.

#### § 3061. QUORUM

For the purpose of transacting business, the presence of delegates or alternates representing more than 50 percent of district members shall constitute a quorum. However, a smaller number may adjourn to another date. Any action adopted by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise provided in this chapter.

§ 3062. VOTING

Each district member's delegation shall be entitled to cast one vote.

§ 3063. TERM

Unless replaced in the manner provided in section 3059 of this chapter, a representative on the governing board shall hold office until his or her successor is duly appointed. Any representative or alternate may be reappointed to successive terms without limit.

§ 3064. VACANCY

Any vacancy on the board shall be filled within 30 days after such vacancy occurs by appointment by the authority which appointed the representative or alternate whose position has become vacant. An appointee to a vacancy shall serve until the expiration of the term of the representative or alternate to whose position the appointment was made and may thereafter be reappointed.

§ 3065. RULES OF PROCEDURE

Except as otherwise provided by law, or as may be agreed upon by the board, Robert's Rules of Order shall govern at all meetings.

§ 3066. COMPENSATION OF REPRESENTATIVES

Each district member may reimburse its representative to the governing board for expenses as it determines reasonable, except as provided in section 3072 of this chapter with respect to district officers.

§ 3067. OFFICERS; BOND

(a) The officers of the district shall be the chair and the vice chair of the board, the clerk of the district, and the treasurer of the district. Prior to assuming their offices, officers may be required to post bond in such amounts as shall be determined by resolution of the board. The cost of such bond shall be borne by the district.

(b) The chair shall preside at all meetings of the board and shall make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the chair.

(d) During the absence or inability of the vice chair to render or perform his

or her duties or exercise his or her powers, the board shall elect from among its membership an acting vice chair who shall have the powers and be subject to all the responsibilities hereby given or imposed upon the vice chair.

(e) Upon the death, disability, resignation, or removal of the chair or vice chair, the board shall forthwith elect a successor to such vacant office until the next annual meeting.

#### § 3068. CLERK

The clerk of the district shall be appointed by the board, and shall serve at its pleasure. The clerk is not required to be a member of the governing board. The clerk shall have the exclusive charge and custody of the records of the district and the seal of the district. The clerk shall record all votes and proceedings of the district, including district and board meetings, and shall prepare and cause to be posted and published all warnings of meetings of such meetings. Following approval by the board, the clerk shall cause the annual report to be distributed to the legislative bodies of the district members. The clerk shall prepare and distribute any other reports required by State law and resolutions or regulations of the board. The clerk shall perform all duties and functions incident to the office of secretary or clerk of a body corporate.

#### § 3069. TREASURER

The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. Upon removal or the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 3070. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm.

§ 3071. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 3072. COMPENSATION OF OFFICERS

Officers of the district shall be paid from district funds such compensation or reimbursement of expenses, or both, as determined by the board.

§ 3073. RECALL OF OFFICERS

An officer may be removed by a two-thirds' vote of the board whenever, in its judgment, the best interest of the district shall be served.

§ 3074. FISCAL YEAR

The fiscal year of the district shall commence on January 1 and end on December 31 of each year.

§ 3075. BUDGET

(a) Annually, not later than September 15, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

- (1) deficits and surpluses from prior fiscal years;
- (2) anticipated expenditures for the administration of the district;
- (3) anticipated expenditures for the operation and maintenance of any district communications plant;
- (4) payments due on obligations, long-term contracts, leases, and financing agreements;
- (5) payments due to any sinking funds for the retirement of district obligations;

(6) payments due to any capital or financing reserve funds;

(7) anticipated revenues from all sources; and

(8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing not later than November 1 of each year to receive comments from the legislative bodies of district members and hear all other interested persons regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least 30 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, not later than December 1, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

#### § 3076. INDEBTEDNESS

The board may borrow money through the issuance of notes of the district for the purpose of paying current expenses of the district. Such notes shall mature within one year, and may be refunded in the manner provided by law, and shall be payable solely from the district's operating revenues. The governing board may borrow money in anticipation of the receipt of grants-in-aid from any source and any revenues. Such notes shall mature within one year, but may be renewed as provided by general law.

#### § 3077. PLEDGE OF REVENUES

(a) When the board, at a regular or special meeting called for such purpose,

determines by resolution passed by a vote of a majority of members present and voting that the public interest or necessity demands communications plant improvements, or a long-term contract, and that the cost of the same will be too great to be paid out of the ordinary annual income and revenue of the district, the board may pledge communications plant net revenues and enter into long-term contracts to provide for such improvements. A “long-term contract” means an agreement in which the district incurs direct or conditional obligations for which the costs are too great to be paid out of the ordinary annual income and revenues of the district, in the judgment of the board. It includes an agreement authorized under 24 V.S.A. § 1789, wherein performance by the district is conditioned upon periodic appropriations. The term “communications plant improvements” includes improvements that may be used for the benefit of the public, whether or not publicly owned or operated.

(b) The pledge of communications plant net revenues, and other obligations allowed by law, may be authorized for any purpose permitted by this chapter, 24 V.S.A. chapter 53, subchapter 2, and chapter 54, or any other applicable statutes. A communications plant is declared to be a project within the meaning of 24 V.S.A. § 1821(4).

#### § 3078. SINKING AND RESERVE FUNDS

(a) The board may establish and provide for sinking and reserve funds, however denominated, for the retirement and security of pledges of communications plant net revenue, or for long-term contracts. When so established, such funds shall be kept intact and separate from other monies at the disposal of the district, and shall be accounted for as a pledged asset for the purpose of retiring or securing such obligations or contracts. The cost of payments to any sinking or reserve fund shall be included in the annual budget of the district.

(b) The board shall establish and provide for a capital reserve fund to pay for communications plant improvements, replacement of worn out buildings and equipment, and planned and unplanned major repairs in furtherance of the purpose for which the district was created. Any such capital reserve fund shall be kept in a separate account and invested as are other public funds and shall be expended for such purposes for which established. The cost of payments to any capital reserve fund shall be included in the annual budget of the district.

#### § 3079. SERVICE FEES

The board may from time to time establish and adjust service, subscription, access, and utility fees for the purpose of generating revenues from the operation of its communications plant.

## § 3080. SPECIAL MEETINGS

(a) The board may call a special meeting of the district when it deems it necessary or prudent to do so and shall call a special meeting of the district when action by the voters is necessary under this chapter. In addition, the board shall call a special meeting upon receipt of a petition signed by at least five percent of the registered voters within the district, or upon request of at least 25 percent of district members evidenced by formal resolutions of the legislative bodies of such members or by petitions signed by at least five percent of the member's registered voters. The board may rescind the call of a special meeting called by it but not a special meeting called as provided in this subsection. The board may schedule the date of such special meetings to coincide with the date of annual municipal meetings, primary elections, general elections, or similar meetings when the electorate within the district members will be voting on other matters.

(b) At any special meeting of the district, voters of each district member shall cast their ballots at such polling places within the municipality of their residence as shall be determined by the board of the district in cooperation with the boards of civil authority of each district member.

(c) Not less than three nor more than 14 days prior to any special meeting, at least one public hearing shall be held by the board at which time the issues under consideration shall be presented and comments received. Notice of such public hearing shall include the publication of a warning in a newspaper of general circulation in the district at least once a week, on the same day of the week, for three consecutive weeks, the last publication not less than five nor more than 10 days before the public hearing. Such notice may be included in the warning called for in subsection (d) of this section.

(d) The board shall warn a special meeting by filing a notice with the clerk of each district member and by posting a notice in at least five public places in each municipality in the district not less than 30 nor more than 40 days before the meeting. In addition, the warning shall be published in a newspaper of general circulation in the district once a week on the same day of the week for three consecutive weeks before the meeting, the last publication to be not less than five nor more than 10 days before the meeting.

(e) The original warning of any special meeting of the district shall be signed by a majority of the board and shall be filed with the clerk before being posted.

(f) The posted and published warning notification shall include the date, time, place, and nature of the meeting. It shall, by separate articles, specifically indicate the business to be transacted and the questions to be

voted upon.

(g) The Australian ballot system shall be used at all special meetings of the district when voting is to take place. Ballots shall be commingled and counted under the supervision of the district clerk.

(h) All legal voters of the district members shall be legal voters of the district. The district members shall post and revise checklists in the same manner as for municipal meetings prior to any district meeting at which there will be voting.

(i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding election officials, voting machines, polling places, absentee voting, process of voting, count and return of votes, validation, recounts and contest of elections, reconsideration or rescission of vote, and jurisdiction of courts shall apply except where clearly inapplicable. The clerk shall perform the functions assigned to the Secretary of State under that chapter. The Washington Superior Court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the district, unless within 30 days of the date of such resolution there is filed with the clerk of the district a request to call a special district meeting under this section to consider a proposition to rescind such resolution.

#### § 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

A district member may withdraw from the district upon the terms and conditions specified below:

(1) Prior to the district pledging communications plant net revenues, or entering into a long-term contract, or contract subject to annual appropriation, a district member may vote to withdraw in the same manner as the vote for admission to the district. If a majority of the voters of a district member present and voting at a meeting duly warned for such purpose votes to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board. Thereafter, the board shall give notice to the remaining district members of the vote to withdraw and shall hold a meeting to determine if it is in the best interest of the district to continue to exist. Representatives of the district members shall be given an opportunity to be heard at such meeting together with any other interested persons. After such a meeting, the board may declare the district dissolved immediately or as soon thereafter as its financial obligations and of each district member on account thereof have been satisfied, or it may declare that the district shall continue to exist despite the withdrawal of such member. The membership of the withdrawing municipality shall terminate as soon after such vote to withdraw as any financial obligations of the withdrawing municipality have

been paid to the district.

(2) After the district has pledged communications plant net revenues, or entered into a long-term contract or contract subject to annual appropriations, a district member may vote to withdraw in the same manner as the vote for admission to the district. It shall be a condition that the withdrawing municipality shall enter into a written agreement with the district whereby such municipality shall be obligated to continue to pay its share of any contract obligations incurred by the district for the remaining term of the contract term.

#### § 3082. ADMISSION OF DISTRICT MEMBERS

The board may authorize the inclusion of additional district members in the communications union district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interests of the district. The legislative body of any nonmember municipality which desires to be admitted to the district shall make application for admission to the board. The board shall determine the financial, economic, governance, and operational effects that are likely to occur if such municipality is admitted and thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including financial obligations, upon which such admission is predicated. Upon resolution of the board, such applicant municipality shall become and thereafter be a district member.

#### § 3083. DISSOLUTION

(a) If the board by resolution approved by two-thirds of all the votes entitled to be cast determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of communications plant net revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction thereof;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

Sec. 21. EAST CENTRAL VERMONT TELECOMMUNICATIONS DISTRICT

The East Central Vermont Telecommunications District approved by the voters of the Towns of Norwich, Randolph, Sharon, Strafford, and Woodstock on March 3, 2015, qualifies as a communications union district under 30 V.S.A. chapter 82, if so approved by the legislative body of each municipality after enactment of 30 V.S.A. chapter 82.

\* \* \* VEDA Loans to Telecommunications Union Districts \* \* \*

Sec. 22. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont Sustainable Jobs Strategy

adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

\* \* \*

(N) industrial park planning, development, or improvement; ~~or~~

(O) for purposes of subchapter 5 of this chapter, a telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a municipality individually or in concert with one or more other municipalities as a communications union district established under 30 V.S.A. chapter 82; or

(P) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

\* \* \*

Sec. 23. 10 V.S.A. § 261 is amended to read:

#### § 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the Authority may:

(1) make loans secured by mortgages, which may be subordinate to one or more prior mortgages, upon application by the proposed mortgagor, who may be a private corporation, partnership ~~or~~, person, or municipality financing an eligible project described in subdivision 212(6) of this title, upon such terms as the Authority may prescribe, for the purpose of financing the establishment or expansion of eligible facilities. Such loans shall be made from the Vermont Jobs Fund established under subchapter 3 of this chapter. The Authority may provide for the repayment and redeposit of such loans in the manner provided hereinafter.

\* \* \*

Sec. 24. 10 V.S.A. § 262 is amended to read:

#### § 262. FINDINGS

Before making any loan, the Authority shall receive from an applicant a

loan application in such form as the Authority may by regulation prescribe, and the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate findings in its minutes that:

\* \* \*

(5) The principal obligation of the Authority's mortgage does not exceed \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless:

(A) an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the Authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section; or

(B) a single loan for which the principal amount of the Authority's mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2); or

\* \* \*

Sec. 25. 10 V.S.A. § 263 is amended to read:

§ 263. MORTGAGE LOAN; LIMITATIONS

\* \* \*

(b) Any loan of the ~~authority~~ Authority under this subchapter shall be for a period of time and shall bear interest at such rate as determined by the ~~authority~~ Authority and shall be secured by a mortgage on the eligible facility for which the loan was made or upon the assets of a municipal communications plant, including the net revenues derived from the operation thereof, or both. The mortgage may be subordinate to one or more prior mortgages, including the mortgage securing the obligation issued to secure the commitment of funds from the independent and responsible sources and used in the financing of the economic development project. Monies loaned by the authority shall be withdrawn from the Vermont jobs fund fund and paid over to the mortgagor in such manner as provided and prescribed by the rules and regulations of the authority. All payments of principal and interest on the loans shall be deposited by the authority in the Vermont jobs fund.

\* \* \*

(h) All actions of a municipality taken under this subchapter for the financing of an eligible project described in subsection 212(b) shall be as authorized in section 245 of this title.

(i) The provisions of section 247 of this title shall apply to the financing of an eligible project described in subdivision 216(6) of this title.

\* \* \* Statutory Revision \* \* \*

#### Sec. 26. STATUTORY REVISION

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

(1) replace the words “Public Service Board” with the words “Department of Public Service”;

(2) replace the word “Board” with the word “Commissioner”; and

(3) make other similar amendments necessary to effect the purposes of this act.

\* \* \* Effective Dates \* \* \*

#### Sec. 27. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2015, except that this section and Secs. 6(e) (Commissioner approval of all Vermont Telecommunications Contracts), 13 (conversion of a meteorological station to wireless telecommunications facility), 15 (retransmission fee reporting), 16 (E-911 operations and savings), 20 (telecommunications union district), 21 (ECFiber qualifies as telecommunications union district), 22–25 (municipal telecommunications projects eligible for VEDA lending), and 26 (statutory revision authority) shall take effect on passage.

(b) Secs. 17, 18, and 19 (transferring administration of the E-911 Board to the Department of Public Safety) shall take effect upon a finding by the Secretary of Administration that the administration of the E-911 system should be transferred to the Department of Public Safety not later than July 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to telecommunications.

(Committee vote: 6-0-1)

(For House amendments, see House Journal for March 31, 2015, page 691-706)

## H. 361.

An act relating to making amendments to education funding, education spending, and education governance.

### **Reported favorably with recommendation of proposal of amendment by Senator Cummings for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings \* \* \*

#### Sec. 1. FINDINGS

(a) Vermont's kindergarten through grade 12 student population has declined from 103,000 in fiscal year 1997 to 78,300 in fiscal year 2015.

(b) The number of school-related personnel has not decreased in proportion to the decline in student population.

(c) The proportion of Vermont students with severe emotional needs has increased from 1.5 percent of the population in fiscal year 1997 to 2.3 percent in fiscal year 2015. In addition, the proportion of students from families in crisis due to loss of employment, opiate addiction, and other factors has also increased during this time period, requiring the State's public schools to fulfill an array of human services functions.

(d) From July 1997 through July 2014, the number of Vermont children ages 6 through 17 residing with families receiving nutrition benefits has increased by 47 percent, from 13,000 to 19,200. While other factors affect student academic performance, studies demonstrate that when the percentage of students in a school who are living in poverty increases, student performance and achievement have a tendency to decrease.

(e) With 13 different types of school district governance structures, elementary and secondary education in Vermont lacks cohesive governance and delivery systems. As a result, many school districts:

(1) are not well-suited to achieve economies of scale; and

(2) lack the flexibility to manage, share, and transfer resources, including personnel, with other school districts and to provide students with a variety of high quality educational opportunities.

(f) 16 V.S.A. § 4010(f) was enacted in 1999 to protect school districts, particularly small school districts, from large, sudden tax increases due to declining student populations. The steady, continued decline in some districts,

together with the compounding effect of the legislation as written, has inflated the equalized pupil count in some districts by as much as 77 percent, resulting in artificially low tax rates in those communities.

(g) National literature suggests that the optimal size for student learning is in elementary schools of 300 to 500 students and in high schools of 600 to 900 students. In Vermont, the smallest elementary school has a total enrollment of 15 students (kindergarten–grade 6) and the smallest high school has a total enrollment of 55 students (grades 9–12). Of the 300 public schools in Vermont, 205 have 300 or fewer enrolled students and 64 have 100 or fewer enrolled students. Of those 64 schools, 16 have 50 or fewer enrolled students.

(h) National literature suggests that the optimal size for a school district in terms of financial efficiencies is between 2,000 and 4,000 students. The smallest Vermont school district has an average daily membership (ADM) of six students, with 79 districts having an ADM of 100 or fewer students. Four Vermont school districts have an ADM that exceeds 2,000 students.

(i) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. It is not the State’s intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(j) The presence of multiple public schools within a single district not only supports flexibility in the management and sharing of resources, but it promotes innovation. For example, individual schools within a district can more easily develop a specialized focus, which, in turn, increases opportunities for students to choose the school best suited to their needs and interests.

\* \* \* Preferred Education Governance Structure; Alternative Structure \* \* \*

## Sec. 2. PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE

(a) Preferred structure: prekindergarten–grade 12 district. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote transparency and accountability, the preferred education governance structure in Vermont is a school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900; and

(4) is organized and operates according to one of the four most common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12;

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for all resident students in grade 7 through grade 12; or

(D) a district that operates no schools and pays tuition for all resident students in prekindergarten through grade 12.

(b) Alternative structure: supervisory union. A single prekindergarten–grade 12 district as envisioned in subsection (a) of this section may not be possible or the best model to achieve Vermont’s education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, can meet the State’s goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that maximizes efficiencies through economies of scale and flexible management, transfer, and sharing of nonfinancial resources among the member districts; and

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns.

\* \* \* Intent; Protections \* \* \*

### Sec. 3. SCHOOL CLOSURE; SMALL SCHOOLS; TUITION PAYMENT; SCHOOL OPERATION; PROTECTIONS; INTENT

(a) School closure; intent. It is not the State’s intent to close schools and nothing in this act shall be construed to require, encourage, or contemplate the closure of schools in Vermont.

(b) Small schools; intent. As stated in Sec. 1 (findings), it is not the State’s intent to close its small schools, but rather to ensure that those schools have the

opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(c) Tuition payment; school operation; protection; intent.

(1) Tuition payment; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades if it chooses to do so and shall not require the district to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(2) School operation; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades if it chooses to do so and shall not require the district to pay tuition for students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(3) Tuition payment; school operation; intent. Nothing in this act shall be construed to restrict or repeal, or to authorize, encourage, or contemplate the restriction or repeal of, the ability of a school district that, as of the effective date of this section, provides for the education of all resident students in one or more grades:

(A) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(B) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

\* \* \* Voluntary Mergers; Incentives; REDS \* \* \*

Sec. 4. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly

satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger ~~is on or before July 1, 2017~~ on which the new district becomes operational is on or before July 1, 2020.

Sec. 5. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

\* \* \*

(h) ~~This section is repealed on July 1, 2017.~~ [Repealed.]

\* \* \* Accelerated Activity; Enhanced Incentives \* \* \*

Sec. 6. ACCELERATED MERGER; SUPERVISORY UNION BECOMING A SUPERVISORY DISTRICT; INCENTIVES; REPORT

(a) A newly formed school district shall receive the incentives set forth in subsection (b) of this section if it:

(1) is formed by merging the governance structures of all member districts of a supervisory union into one unified union school district pursuant to the processes and requirements of 16 V.S.A. chapter 11; and, in addition, could include merger with a neighboring supervisory district;

(2) obtains an affirmative vote of all “necessary” districts on or after July 1, 2015, and prior to July 1, 2016;

(3) is responsible for the education of all resident prekindergarten through grade 12 students;

(4) is its own supervisory district;

(5) has a minimum average daily membership of 900 in its first year of operation; and

(6) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(7) becomes operational on or before July 1, 2017; and

(8) provides data as requested by the Agency of Education and otherwise assists the Agency to assess whether and to what extent the consolidation of its governance results in increased educational opportunities, operational efficiencies, transparency, and accountability.

(b) A newly formed school district that meets the criteria set forth in subsection (a) shall receive the following:

(1) Decreased equalized homestead property tax rate or accelerated action incentive grant. A new district's plan of merger shall provide whether, upon creation of the new district, the district shall receive decreased equalized homestead property tax rates during the first five years of operation pursuant to subdivision (A) or an incentive grant during the first year of operation pursuant to subdivision (B):

(A)(i) Decreased homestead property tax rates. Subject to the provisions of subdivision (iii) of this subdivision (A) and notwithstanding any other provision of law, the new district's equalized homestead property tax rate shall be:

(I) decreased by \$0.10 in the first fiscal year of operation;

(II) decreased by \$0.10 in the second fiscal year of operation;

(III) decreased by \$0.08 in the third fiscal year of operation;

(IV) decreased by \$0.06 in the fourth fiscal year of operation; and

(V) decreased by \$0.04 in the fifth fiscal year of operation.

(ii) The household income percentage shall be calculated accordingly.

(iii) During the years in which a new district's equalized homestead property tax rate is decreased pursuant to this subdivision (A), the rate for each town within the new district shall not increase by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(B) Accelerated action incentive grant. During the first fiscal year of operation, the Secretary of Education shall pay to the new district's board an accelerated action incentive grant from the Education Fund equal to \$400.00 multiplied by the total number of resident students in the new district in that year. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(C) Common level of appraisal. Regardless of whether a new district chooses to receive decreased homestead property tax rates or an accelerated action incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the new district for purposes of determining the homestead property tax rate for each town.

(2) Merger support grant. Notwithstanding any provision of law to the contrary, if the districts forming the new district include at least one “eligible school district,” as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(3) Transition facilitation grant. After voter approval of the plan of merger, the Secretary of Education shall pay the transitional board of the new district a transition facilitation grant from the Education Fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) \$150,000.00.

(c) If a new district that receives incentives under this section also meets the eligibility criteria to receive incentives as a regional education district (RED), then the district shall not receive the incentives available to a RED pursuant to 2010 Acts and Resolves No. 153, subsections 4(a), (d), (e) or (g), as amended by 2012 Acts and Resolves No. 156, Sec. 13.

(d) The Secretary of Education, in collaboration with other entities such as the University of Vermont or the Regional Educational Laboratory–Northeast and Islands, shall collect and analyze data from the new districts created under this section regarding issues including educational opportunities, operational efficiencies, transparency, and accountability following merger. Beginning on January 15, 2016, and annually through January 2021, the Secretary shall submit a report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the districts pursuing merger under this

section, conclusions drawn from the data collected, and any recommendations for legislative action.

\* \* \* Facilitating Voluntary Governance Transitions; Supervisory  
Union Boundaries \* \* \*

Sec. 7. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY  
UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate ~~K-12~~ prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may ~~apply to request that the State Board of education for adjustment of~~ adjust the existing boundaries of the supervisory union of which it is a ~~component~~ member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall give timely consideration to ~~such~~ requests made pursuant to this subsection and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

(c) The State Board may designate any school district, including a unified union district, as a supervisory district if it will ~~offer schools in grades K-12~~ provide for the education of all resident students in prekindergarten through grade 12 and is large enough to support the planning and administrative functions of a supervisory union.

(d) Upon application by a supervisory union board, the State Board may waive any requirements of chapter 5 or 7 of this title with respect to the supervisory union board structure, board composition, or board meetings, or the staffing pattern of the supervisory union, if it can be demonstrated that such a waiver will result in efficient and effective operations of the supervisory

union; will not result in any disproportionate representation; and is otherwise in the public interest.

\* \* \* Merger Support Grants; Small Schools Grants \* \* \*

#### Sec. 8. MERGER SUPPORT GRANT

(a) Notwithstanding any provision of law to the contrary and subject to subsection (b) of this section, if the districts creating a union school district pursuant to 16 V.S.A. chapter 11 include at least one “eligible school district,” as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new union school district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(b) This section shall apply only to a union school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900 in its first year of operation; and

(4) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(5) obtains a favorable vote of all “necessary” districts on or after July 1, 2015; and

(6) becomes operational after July 1, 2017, and on or before July 1, 2020.

Sec. 9. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that operates at least one school; that has been determined by the State Board to be eligible due to geographic necessity, and

~~(A) has a two year average combined enrollment of fewer than 100 students in all the schools operated by the district; or~~

~~(B) that school has an average grade size of 20 or fewer.~~

\* \* \*

(7) “Eligible due to geographic necessity” means that the State Board has determined, on an annual basis, that the lengthy driving times or inhospitable travel routes between the school and the nearest school or schools in which there is excess capacity are an obstacle to transporting students. The State Board shall adopt and publish guidelines, which it will update as necessary, by which it will determine eligibility. A determination by the State Board of whether a district is eligible due to geographic necessity under this section shall be final.

\* \* \*

~~(c) Small schools financial stability grant: In addition to a small schools support grant, an eligible school district whose two year average enrollment decreases by more than 10 percent in any one year shall receive a small schools financial stability grant. However, a decrease due to a reduction in the number of grades offered in a school or to a change in policy regarding paying tuition for students shall not be considered an enrollment decrease. The amount of the grant shall be determined by multiplying 87 percent of the base education amount for the current fiscal year, by the number of enrollment, to the nearest one hundredth of a percent, necessary to make the two year average enrollment decrease only 10 percent. [Repealed.]~~

~~(d) Funds for both grants shall be appropriated from the Education Fund and shall be added to payments for the base education amount or deducted from the amount owed to the Education Fund in the case of those districts that must pay into the Fund under section 4027 of this title. [Repealed.]~~

\* \* \*

Sec. 10. SMALL SCHOOL SUPPORT; TRANSITION

(a) In fiscal year 2017, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2017 shall

receive small school support that is two-thirds of the amount it received in fiscal year 2016.

(b) In fiscal year 2018, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2018 shall receive small school support that is one-third of the amount it received in fiscal year 2016.

\* \* \* Declining Enrollment; Equalized Pupils; 3.5 Percent Limit \* \* \*

Sec. 11. 16 V.S.A. § 4010(f) is amended to read:

(f) For purposes of the calculation under this section, a district’s equalized pupils shall in no case be less than 96 and one-half percent of the district’s actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this subsection.

Sec. 12. DECLINING ENROLLMENT; TRANSITION

(a) If a district’s equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 11 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district’s equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district’s equalized pupils shall in no case be less than 90 percent of the district’s equalized pupils in the previous year; and

(2) in fiscal year 2018, the district’s equalized pupils shall in no case be less than 80 percent of the district’s equalized pupils in the previous year.

Sec. 13. REPEAL

16 V.S.A. § 4010(f) (declining enrollment; hold-harmless provision) is repealed on July 1, 2020.

Sec. 14. DECLINING ENROLLMENT; 3.5 PERCENT HOLD-HARMLESS;  
GRANDFATHERED DISTRICTS

Beginning in fiscal year 2021, for purposes of determining weighted membership under 16 V.S.A. § 4010, a district’s equalized pupils shall in no case be less than 96 and one-half percent of the actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this section, if the district, on or before July 1, 2020:

(1) became eligible to receive incentives pursuant to Sec. 6 of this act (accelerated activity);

(2) met each of the criteria listed in Sec. 8(b)(1)–(5) of this act, regardless of whether the new district is eligible for a merger support grant, and became an operational unified union school district; or

(3) became eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, and further amended by this act (REDs and eligible variations).

\* \* \* Current Incentives for Other Joint Activity \* \* \*

#### Sec. 15. CURRENT INCENTIVES FOR JOINT ACTIVITY; LIMITATIONS ON APPLICABILITY

(a) Notwithstanding the provisions of the following sections of law, the grants and reimbursements authorized by those sections shall be available only as provided in subsection (b) of this section:

(1) 2012 Acts and Resolves No. 156, Sec. 2 (reimbursement of fees of up to \$5,000.00 incurred by school districts or supervisory unions for initial exploration of joint activity).

(2) 2012 Acts and Resolves No. 156, Sec. 4 (reimbursement of analysis or transition costs of up to \$10,000.00 incurred by school districts or supervisory unions for joint activity other than a merger).

(3) 2012 Acts and Resolves No. 156, Sec. 5 (reimbursement of fees of up to \$20,000.00 incurred by supervisory unions for analysis relating to the advisability of merger of supervisory unions).

(4) 2012 Acts and Resolves No. 156, Sec. 6 (transition facilitation grant of \$150,000.00 for the successful merger of two or more supervisory unions).

(5) 2012 Acts and Resolves No. 156, Sec. 9 (reimbursement of fees of up to \$20,000.00 incurred by school districts for analysis relating to the advisability of merger other than a regional education district (RED)).

(6) 2012 Acts and Resolves No. 156, Sec. 11 (transition facilitation grant of the lesser of \$150,000.00 or five percent of the base education amount multiplied by the combined enrollment for the successful merger of two or more districts other than a RED).

(b) A group of districts or supervisory unions shall receive one or more of the incentives listed in subsection (a) of this section only if it:

(1) meets the specific eligibility criteria for the incentive; and

(2) completes the specific requirements for eligibility on or before December 31, 2015.

\* \* \* Supervisory Unions; Local Education Agency \* \* \*

Sec. 16. 16 V.S.A. § 43(c) is amended to read:

(c) For purposes of determining pupil performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a ~~school district~~ supervisory union shall be a local education agency.

\* \* \* Duties of Supervisory Unions; Failure to Comply; Tax Rates \* \* \*

Sec. 17. 16 V.S.A. § 261a(c) is added to read:

(c)(1) After notice to the boards of a supervisory union and its member districts, the opportunity for a period of remediation, and the opportunity for a hearing, if the Secretary determines that a supervisory union or any one of its member districts is failing to comply with the any provision of subsection (a) of this section, then the Secretary shall notify the board of the supervisory union and the board of each of its member districts that the education property tax rates for nonresidential and homestead property shall be increased by five percent in each district within the supervisory union and the household income percentage shall be adjusted accordingly in the next fiscal year for which tax rates will be calculated. The districts' actual tax rates shall be increased by five percent, and the household income percentage adjusted, in each subsequent fiscal year until the fiscal year following the one in which the Secretary determines that the supervisory union and its districts are in compliance. If the Secretary determines that the failure to comply with the provisions of subsection (a) of this section is solely the result of the actions of the board of one member district, then the tax increase in this subsection (c) shall apply only to the tax rates for that district. Subject to Vermont Rule of Civil Procedure 75, the Secretary's determination shall be final.

\* \* \* Transition of Employees \* \* \*

Sec. 18. 16 V.S.A. chapter 53, subchapter 3 is added to read:

### Subchapter 3. TRANSITION OF EMPLOYEES

#### § 1801. DEFINITIONS

As used in this subchapter:

(1) "New District" means a district created by the realignment or merger of two or more current districts into a new supervisory district, union school district, or any other form of merged or realigned district authorized by law, including by chapter 11, subchapter 1, of this title, regardless of whether one or more of the districts creating the New District (a Realigning District) is a town school district, a city school district, an incorporated school district, a union school district, a unified union school district, or a supervisory district.

(2) “New SU” means a supervisory union created from the merger or realignment of two or more current supervisory unions or of all or some of the districts in one or more current supervisory unions (a Realigning SU). “New SU” also means a supervisory union created by the State Board’s adjustment of the borders of one or more current supervisory unions or parts of supervisory unions pursuant to section 261 of this title or otherwise, regardless of whether the New SU is known by the name of one of the current supervisory unions or the adjustment is otherwise structured or considered to be one in which one current supervisory union (the Absorbing SU) is absorbing one or more other supervisory unions or parts of supervisory unions into the Absorbing SU.

(3) “Employees of a Realigning Entity” means the licensed and nonlicensed employees of a Realigning District or Realigning SU, or both, that create the New District or New SU, and includes employees of an Absorbing SU and employees of a Realigning SU whose functions will be performed by employees of a New District that is a supervisory district.

(4) “System” shall mean the Vermont Municipal Employees’ Retirement System created pursuant to 24 V.S.A. chapter 125.

(5) “Transitional Board” means the board created prior to the first day of a New District’s or a New SU’s existence in order to transition to the new structure by negotiating and entering into contracts, preparing an initial proposed budget, adopting policies, and otherwise planning for implementation of the New District or New SU, and includes the board of an Absorbing District to which members from the other Realigning SU or SUs have been added in order to perform transitional responsibilities.

#### § 1802. TRANSITION OF EMPLOYEES TO NEWLY CREATED EMPLOYER

(a) Prior to the first day of a New District’s or a new SU’s existence, upon creation of the Transitional Board, the Board shall:

(1) appoint a negotiations council for the New District or New SU for the purpose of negotiating with future employees’ representatives; and

(2) recognize the representatives of the Employees of the Realigning Districts or Realigning SUs as the recognized representatives of the employees of the New District or New SU.

(b) Negotiations shall commence within 90 days after formation of the Transitional Board and shall be conducted pursuant to the provisions of chapter 57 of this title for teachers and administrators and pursuant to 21 V.S.A. chapter 22 for other employees.

(c) An Employee of a Realigning District or Realigning SU who was not a probationary employee shall not be considered a probationary employee of the New District or New SU.

(d) If a new agreement is not ratified by both parties prior to the first day of the New District's or New SU's existence, then:

(1) the parties shall comply with the existing agreements in place for Employees of the Realigning Districts or the Realigning SUs until a new agreement is reached;

(2) the parties shall adhere to the provisions of an agreement among the Employees of the Realigning Districts or the Realigning SUs, as represented by their respective recognized representatives, regarding how provisions under the existing contracts regarding issues of seniority, reduction in force, layoff, and recall will be reconciled during the period prior to ratification of a new agreement; and

(3) a new employee beginning employment after the first day of the New District's or New SU's existence shall be covered by the agreement in effect that applies to the largest bargaining unit for Employees of the Realigning Districts in the New District or for Employees of the Realigning SU in the New SU.

(e) On the first day of its existence, the New District or New SU shall assume the obligations of existing individual employment contracts, including accrued leaves and associated benefits, with the Employees of the Realigning Districts.

#### § 1803. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

(a) A New District or New SU, on the first day of its existence, shall assume the responsibilities of any one or more of the Realigning Districts or Realigning SUs that have been participants in the system; provided, however, that this subsection shall not be construed to extend benefits to an employee who would not otherwise be a member of the system under any other provision of law.

(b) The existing membership and benefits of an Employee of a Realigning District or a Realigning SU shall not be impaired or reduced either by negotiations with the New District or New SU under 21 V.S.A. chapter 22 or otherwise.

(c) In addition to general responsibility for the operation of the System pursuant to 24 V.S.A. § 5062(a), the responsibility for implementation of all sections of this subchapter relating to the System is vested in the Retirement Board.

\* \* \* Unified Union School District; Definition \* \* \*

Sec. 19. 16 V.S.A. § 722 is amended to read:

§ 722. UNIFIED UNION DISTRICTS

~~If a union school district is organized to operate grades kindergarten through 12, it~~ (a) A union school district shall be known as a unified union district if it provides for the education of resident prekindergarten–grade 12 students, whether by:

(1) operating a school or schools for all grades;

(2) operating a school or schools for all students in one or more grades and paying tuition for all students in the remaining grade or grades; or

(3) paying tuition for all grades.

(b) On the date the unified union district becomes operative, unless another date is specified in the study committee report, it shall supplant all other school districts within its borders, and they shall cease to exist.

(c) If provided for in the committee report, the unified union school district ~~school~~ board may be elected and may conduct business for the limited purpose of preparing for the transition to unified union district administration while the proposed member school districts continue to operate schools.

(d) The functions of the legislative branch of each preexisting school district in warning meetings and conducting elections of unified union school district board members shall be performed by the corresponding board of alderpersons of a city or city council, the selectboard of a town, or the trustees of an incorporated school district as appropriate.

\* \* \* Agencies of Human Services and of Education;  
Coordination; Report \* \* \*

Sec. 20. COORDINATION OF EDUCATIONAL AND SOCIAL SERVICES; REPORT

(a) The Secretaries of Education and of Human Services, in consultation with school districts, supervisory unions, social service providers, and other interested parties, shall develop a plan for maximizing collaboration and coordination between the Agencies in delivering social services to Vermont public school students and their families. The plan shall:

(1) propose ways to improve access to and quality of social services provided to Vermont public school students and their families through systems-level planning and integration;

(2) propose sustainable ways to increase efficiencies in delivering social services to Vermont public school students and their families while maintaining access and quality, including ways to promote effective communication between the Agencies at the State and local levels;

(3) consider ways in which schools and social service providers can share services, personnel, and other resources, including the use of available space in school buildings by Agency of Human Services personnel;

(4) identify the amounts and sources of spending by the Agency of Human Services and the education system to provide social services to families with school-age children; and

(5) identify any barriers to increased efficiency, statutory or otherwise and including federal and State privacy protections, and propose ways to address these barriers, including any recommendations for legislative action.

(b) On or before January 15, 2016, the Secretaries shall present their plan and recommendations to the Senate Committees on Education and on Health and Welfare and the House Committees on Education and on Human Services.

\* \* \* Quality Assurance; Accountability \* \* \*

Sec. 21. 16 V.S.A. § 165(b)(1)–(4) are amended and subdivision (5) is added to read:

(1) the Agency continue to provide technical assistance for one more cycle of review;

(2) the State Board adjust supervisory union boundaries or responsibilities of the superintendency pursuant to section 261 of this title;

(3) the Secretary assume administrative control of an individual school, school district, or supervisory union, including budgetary control to ensure sound financial practices, only to the extent necessary to correct deficiencies; or

(4) the State Board close ~~the~~ an individual school or schools and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title; or

(5) the State Board require two or more school districts to consolidate their governance structures.

Sec. 22. QUALITY ASSURANCE; ACCOUNTABILITY

The Secretary of Education shall regularly review, evaluate, and keep the State Board of Education apprised of the following:

(1) the discussions, studies, and activity among districts to move voluntarily toward creating a unified union school district as set forth in Sec. 2(a) (preferred governance structure) of this act;

(2) the data collected from districts that vote prior to July 1, 2016, to merge into that preferred governance structure pursuant to Sec. 6 (accelerated activity) of this act and from other districts that have merged or do merge into a regional education district (RED) and their variations or that otherwise merge into the preferred governance structure set forth in Sec. 2(a) of this act; and

(3) the data and other information collected in connection with the Education Quality Standards, and related on-site education quality reviews, including data and information regarding the equity of educational opportunities, academic outcomes, personalization of learning, a safe school climate, high quality staffing, and financial efficiency.

\* \* \* Transition to Sustainable Governance Structures \* \* \*

Sec. 23. VOLUNTARY SELF-EVALUATION, MEETINGS, AND DECLARATION

(a) The board of each school district in the State that has a governance structure different from the preferred structure set forth in Sec. 2(a) of this act or that does not expect to move or will not be moving into the preferred structure on or before July 1, 2020, may choose to pursue one or more of the following actions:

(1) Self-evaluation. The board may choose to evaluate the quality and variety of educational opportunities the district offers and the district's operational efficiencies, including its flexibility to manage, share, and transfer nonfinancial resources with other districts.

(2) Meetings.

(A) The board may choose to meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with:

(i) the quality, variety, and equity of available educational opportunities;

(ii) operational efficiencies, including the flexibility to manage, share, and transfer resources; and

(iii) transparency and accountability.

(B) The districts would not need to be contiguous and would not need to be within the same supervisory union.

(3) Declaration. A board of a district, solely on behalf of its own district or jointly with the boards of other districts, may choose to submit a letter to the Secretary of Education and the State Board of Education on or before June 30, 2017, that:

(A) declares the district's intention to retain its current governance structure or to work with other districts to form a different governance structure or otherwise enter into joint activity;

(B) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the intention stated in subdivision (A) of this subdivision supports the district's or districts' ability to:

(i) provide high-quality and varied educational opportunities that are substantially equitable when compared to opportunities available statewide;

(ii) to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources among educational units; and

(iii) to promote transparency and accountability; and

(C) identifies detailed actions it would take to continue to improve its performance in each of the three areas set forth in subdivisions (B)(i)–(iii).

#### Sec. 24. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES

(a) Goals; Secretary's proposal. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote transparency and accountability, the Secretary of Education shall:

(1) Review the governance structures of the school districts and supervisory unions of the State as they will exist, or are anticipated to exist, on July 1, 2020. This review shall include consideration of any declarations submitted by districts or groups of districts pursuant to Sec. 23 of this act and conversations with those and other districts.

(2) On or before April 1, 2018, shall develop, publish on the Agency's website, and present a proposed plan to the State Board of Education that, to the extent necessary to promote the purpose stated at the beginning of this

subsection (a), would move districts into the more sustainable, preferred model of governance set forth in Sec. 2(a) of this act. If it is not possible or practicable to develop a proposal that realigns districts, where necessary, in a manner that adheres to the protections of Sec. 3(c) (protection for tuition-paying and operating districts) or that otherwise meets all aspects of Sec. 2(a), then the proposal may include alternative governance structures as necessary, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership; provided, however, that any proposed alternative governance structure shall be designed to:

(A) ensure adherence to the protections of Sec. 3(c); and

(B) promote equity of educational opportunities, financial efficiencies, accountability, and transparency in a sustainable governance structure.

(b) State Board's proposed plan. On or before December 31, 2018, the State Board shall review and analyze the Secretary's proposal under the provisions in subsection (a) of this section, may take testimony or ask for additional information from districts and supervisory unions, shall approve the proposal in either its original form or in an amended form that adheres to the provisions of subsection (a), and shall present to the General Assembly and publish on the Agency of Education's website a proposed plan realigning districts and supervisory unions where necessary.

(c) General Assembly. Upon review of the State Board's proposed plan and receipt of testimony from the public and interested parties, it is the intent of the General Assembly in 2015 that the 2019–2020 General Assembly shall enact the proposed plan either in its original form or in an amended form that:

(1) adheres to the provisions of subsection (a) of this section; and

(2) establishes a date by which any new districts and expanded or otherwise realigned supervisory unions that might be created under this section shall be operational.

(d) Applicability. This section shall not apply to:

(1) interstate school districts;

(2) regional career technical center school districts formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) districts that, between June 30, 2013, and July 2, 2020, have voluntarily created and have begun or will begin to operate as a unified union school district that:

(A) is a regional education district (RED) or a district eligible to receive RED incentives; or

(B) is formed pursuant to the preferred structure set forth Sec. 2(a) of this act.

\* \* \* Education Technical Assistant; Position \* \* \*

#### Sec. 25. EDUCATION TECHNICAL ASSISTANT

There is established one (1) new limited service exempt position – Education Technical Assistant – in the Agency of Education, authorized for fiscal years 2016 and 2017. The Education Technical Assistant shall work directly with school districts and supervisory unions to provide information and assistance regarding fiscal and demographic projections and the options available to address any necessary systems changes. The Agency’s authority to hire an individual for this purpose is contingent on its ability to obtain funding for the position solely through nonstate sources.

\* \* \* Effective Dates \* \* \*

#### Sec. 26. EFFECTIVE DATES

- (a) Sec. 1 (findings) shall take effect on passage.
- (b) Sec. 2 (preferred governance structure) shall take effect on passage.
- (c) Sec. 3 (intent) shall take effect on passage.
- (d) Secs. 4 and 5 (REDs; incentives; dates) shall take effect on passage.
- (e) Sec. 6 (accelerated activity; increased incentives) shall take effect on passage.
- (f) Sec. 7 (supervisory union boundaries) shall take effect on passage.
- (g) Sec. 8 (Merger Support Grants) shall take effect on July 1, 2015.
- (h) Secs. 9 and 10 (small school support; transition) shall take effect on July 1, 2016, and shall apply to grants made in fiscal year 2017 and after.
- (i) Secs. 11 and 12 (declining enrollment; hold-harmless provision; transition) shall take effect on July 1, 2016.
- (j) Sec. 13 (declining enrollment; hold-harmless provision; repeal) shall take effect on July 1, 2020.
- (k) Sec. 14 (declining enrollment; hold-harmless provision; exception) shall take effect on July 1, 2020.

(l) Sec. 15 (existing incentives; applicability) shall take effect on July 1, 2015.

(m) Sec. 16 (supervisory unions; local education agency) shall take effect on July 1, 2015.

(n) Sec. 17 (supervisory union duties; failure to comply; tax rates) shall take effect on July 1, 2016; provided, however, that tax rates shall not be increased pursuant to this section prior to fiscal year 2018.

(o) Sec. 18 (transition of employees) shall take effect on passage and shall apply to a New District or New SU that has its first day of operation on or after that date; provided, however, that this section shall not apply to the transition of employees to the new joint contract school scheduled to be operated by the Pomfret and Bridgewater school districts beginning in the 2015–2016 academic year.

(p) Sec. 19 (unified union school district; definition) shall take effect on passage.

(q) Sec. 20 (Agencies of Education and of Human Services; coordination) shall take effect on passage.

(r) Sec. 21 (authorities of State Board of Education) shall take effect on July 1, 2020.

(s) Sec. 22 (review of data) shall take effect on July 1, 2015.

(t) Sec. 23 (optional self-evaluation, meetings, and proposal) shall take effect on July 1, 2015.

(u) Sec. 24 (optional self-evaluation; transition to sustainable governance structures) shall take effect on July 1, 2015.

(v) Sec. 25 (limited service exempt position) shall take effect on July 1, 2015.

(w) This section (effective dates) shall take effect on passage.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for April 1, 2015, pages 716-737 and April 2, 2015, page 943)

**Reported favorably with recommendation of proposal of amendment by Senator MacDonald for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 6 (enhanced incentives), in subsection (a), by inserting a new subdivision (7) to read as follows:

(7) demonstrates in the study committee report presented to the State Board and district voters pursuant to 16 V.S.A. chapter 11 that the proposed governance changes will result in:

(A) increased equity in the quality and variety of educational opportunities;

(B) increased operational efficiencies, through enhanced flexibility to manage, share, and transfer resources;

(C) increased transparency and accountability; and

(D) reduced expenditures per equalized pupil;

And by renumbering existing subdivisions (7) and (8) to be numerically correct.)

Second: In Sec. 12 (declining enrollment; transition), by adding a new subsection to be subsection (c) to read as follows:

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 11 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be “actively engaged in merger discussions” pursuant to this subsection (c) if on or before July 1, 2016 it has formed a study committee pursuant to 16 V.S.A. chapter 11.

Third: After Sec. 25, by adding 13 new sections to be Secs. 26 through 38 to read as follows:

\* \* \* Yield; Dollar Equivalent \* \* \*

Sec. 26. 16 V.S.A. § 4001(13) is amended to read:

(13) “Base education amount” means a number used to calculate ~~tax rates.~~ The base education amount is categorical grants awarded under this title that is equal to \$6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 27. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

\* \* \*

(13)(A) “District Education property tax spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the ~~base education amount~~ property dollar equivalent yield for the school year, as defined in ~~16 V.S.A. § 4001~~ subdivision (15) of this section. ~~For a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year and which has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.~~

(B) “Education income tax spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

\* \* \*

(15) “Property dollar equivalent yield” means the amount of spending per equalized pupil that would result if the homestead tax rate were \$1.00 per \$100.00 of equalized education property value, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

(16) “Income dollar equivalent yield” means the amount of spending per equalized pupil that would result if the applicable percentage in subdivision 6066(a)(2) of this title were 2.0 percent, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

Sec. 28. 32 V.S.A. § 5402 is amended to read:

#### § 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A ~~Statewide~~ statewide education tax is imposed on all nonresidential and homestead property at the following rates:

(1) The tax rate for nonresidential property shall be \$1.59 per \$100.00.

(2) The tax rate for homestead property shall be ~~\$1.40~~ \$1.00 multiplied by the ~~district~~ education property tax spending adjustment for the municipality, per \$100.00, of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate

for each municipality which is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The ~~Statewide~~ statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the municipality's most recent common level of appraisal, but without regard to any ~~district~~ spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

\* \* \*

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under chapter 213 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its ~~district~~ spending adjustment under subdivision 5401(13) of this title.

(e) The Commissioner of Taxes shall determine a homestead education tax rate for each municipality which is a member of a union or unified union school district as follows:

(1) For a municipality which is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based upon the education spending per equalized pupil of the unified union.

(2) For a municipality which is a member of a union school district:

(A) Determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per total equalized pupil in the municipality who attends a school other than the union school.

(B) Determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per equalized pupil of the union school district.

\* \* \*

Sec. 29. 32 V.S.A. § 6066(a)(2) is amended to read:

(2) “Applicable percentage” in this section means two percent, multiplied by the ~~district~~ education income tax spending adjustment under subdivision 5401(13)(B) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; ~~but in no event shall the applicable percentage be less than two percent.~~

Sec. 30. REVISION AUTHORITY

Notwithstanding 4 V.S.A. § 424, the Office of Legislative Council is authorized to change all instances in statute of the term “applicable percentage” to “income percentage” in 32 V.S.A. chapters 135 and 154.

Sec. 31. 16 V.S.A. § 4031 is amended to read:

§ 4031. UNORGANIZED TOWNS AND GORES

(a) For a municipality that as of January 1, 2004 is an unorganized town or gore, its ~~district~~ education property tax spending adjustment under 32 V.S.A. § 5401(13) shall be one for purposes of determining the tax rate under 32 V.S.A. § 5402(a)(2).

(b) For purposes of a claim for property tax adjustment under 32 V.S.A. chapter 154 by a taxpayer in a municipality affected under this section, the applicable percentage shall not be multiplied by a spending adjustment under 32 V.S.A. § 5401(13).

Sec. 32. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS  
YIELDS; RECOMMENDATION OF THE COMMISSIONER

~~(a) Annually, by December 1, the Commissioner of Taxes shall recommend to the General Assembly, after consultation with the Agency of Education, the Secretary of Administration, and the Joint Fiscal Office, the following adjustments in the statewide education tax rates under subdivisions 5402(a)(1) and (2) of this title:~~

~~(1) If there is a projected balance in the Education Fund Budget Stabilization Reserve in excess of the five percent level authorized under 16 V.S.A. § 4026, the Commissioner shall recommend a reduction, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at the five percent maximum level authorized and raise at least 34 percent of projected education spending from the tax on nonresidential property; and~~

~~(2) If there is a projected balance in the Education Fund Budget Stabilization Reserve of less than the three and one half percent level required under 16 V.S.A. § 4026, the Commissioner shall recommend an increase, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at no less than the three and one half percent minimum level authorized under 16 V.S.A. § 4026, and raise at least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(3) In any year following a year in which the nonresidential rate produced an amount of revenues insufficient to support 34 percent of education fund spending in the previous fiscal year, the Commissioner shall determine and recommend an adjustment in the nonresidential rate sufficient to raise at least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(4) If in any year in which the nonresidential rate is less than the statewide average homestead rate, the Commissioner of Taxes shall determine the factors contributing to the deviation in the proportionality of the nonresidential and homestead rates and make a recommendation for adjusting statewide education tax rates accordingly.~~

~~(b) If the Commissioner makes a recommendation to the General Assembly to adjust the education tax rates under section 5402 of this title, the Commissioner shall also recommend a proportional adjustment to the applicable percentage base for homestead income based adjustments under~~

~~section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.94 percent.~~

(a) Annually, no later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield and an income dollar equivalent yield for the following fiscal year. In making these calculations, the Commissioner shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is 1.00 per \$100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; and

(4) the percentage change in the median education tax bill applied to nonresidential property, the percentage change in the median education tax bill of homestead property, and the percentage change in the median education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

(b) For each fiscal year, the General Assembly shall set a property dollar equivalent yield and an income dollar equivalent yield, consistent with the definitions in this chapter.

\* \* \* Fiscal Year 2016 Education Property Tax Rates, Applicable Percentage,  
and Base Education Amount \* \* \*

### Sec. 33. FISCAL YEAR 2016 EDUCATION PROPERTY TAX RATES AND APPLICABLE PERCENTAGE

(a) For fiscal year 2016 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.535 per \$100.00; and

(2) the tax rate for homestead property shall be \$1.00 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2015 only, “applicable percentage” in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.82 percent multiplied by the fiscal year 2015 district spending adjustment for

the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.82 percent.

Sec. 34. FISCAL YEAR 2016 BASE EDUCATION AMOUNT

As provided in 16 V.S.A. § 4011(b), the base education amount for fiscal year 2016 shall be \$9,459.00.

\* \* \* Tuition; Statewide Average Rate \* \* \*

Sec. 35. 16 V.S.A. § 823(b) is amended to read:

(b) Unless, in the case of a school located in Vermont, the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school or an independent school meeting school quality standards located in or outside Vermont shall not exceed the least of:

(1) the average announced tuition of Vermont union elementary schools for the year of attendance;

(2) the tuition charged by the approved independent school for the year of attendance; or

(3) the average per-pupil tuition the district pays for its other resident elementary students in the year in which the student is enrolled in the approved independent school.

Sec. 36. 16 V.S.A. § 824(c) is amended to read:

(c) The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance for its students enrolled in an approved independent school not functioning as a Vermont area career technical center; ~~or any; provided, however, that the electorate may vote to pay a higher amount approved by the electorate to a school located in Vermont~~ at an annual or special meeting warned for that purpose.

\* \* \* Socioeconomic Isolation \* \* \*

Sec. 37. SOCIOECONOMIC ISOLATION OF SCHOOL DISTRICTS

On or before January 15, 2016, the Secretary of Education shall:

(1) develop and establish guidelines and procedures by which the Agency and the State Board of Education can minimize the possibility that voluntary mergers and other education governance changes authorized, contemplated, or incentivized by this act will result in the isolation of districts with low fiscal capacity or with high percentages of students from economically deprived backgrounds; and

(2) report to the Senate and House Committees on Education, and to other standing committees upon request, regarding guidelines and procedures designed to minimize the possibility of such isolation and any requests for legislative action.

\* \* \* Systems Evaluation and Leadership Training \* \* \*

#### Sec. 38. SYSTEMS EVALUATION AND LEADERSHIP TRAINING

(a) The Secretary of Education, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont Principals' Association, shall evaluate and identify supervisory unions and school districts that are experiencing chronic leadership challenges, as revealed by high administrator turnover rates and other indicators. The Secretary may enter into contracts with one or more qualified entities to provide systems evaluation and joint leadership training to the superintendent, principals, and school board members of each identified supervisory union or school board, which shall be in addition to the training required by 16 V.S.A. § 561(b). The systems evaluations shall identify specific problems, including those associated with structure, communication, or delineation of roles and responsibilities, that limit successful outcomes for leadership within the identified districts and shall lead to recommendations for leadership improvement.

(b) Prior to any reversions, of the amount appropriated in fiscal year 2015 pursuant to 2014 Acts and Resolves No. 179, Sec. B.505, an amount not to exceed \$50,000.00 may be expended, if necessary, by the Agency of Education in fiscal year 2016 for purposes of this section.

And by renumbering the remaining section (effective dates) to be numerically correct.

Fourth: In Sec. 39 (effective dates), in subsection (m) (local education agency), by striking out the year “2015” and inserting in lieu thereof the year 2016

Fifth: In Sec. 39 (effective dates), by adding five new subsections to be subsections (x) through (bb) to read as follows:

(x) Secs. 26–32 (yield; dollar equivalent) shall take effect on July 1, 2015, and apply to fiscal year 2017 and after.

(y) Secs. 33–34 (fiscal year 2016; tax rates; base education amount) shall take effect on July 1, 2015, and apply to fiscal year 2016.

(z) Secs. 35–36 (tuition amounts) shall take effect on July 1, 2015 and shall apply to tuition paid in fiscal year 2017 (academic year 2016–2017) and after.

(aa) Sec. 37 (socioeconomic isolation) shall take effect on passage.

(bb) Sec. 38 (leadership training; authorization) shall take effect on passage.

(Committee vote: 6-0-1)

**Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education as amended by the Committee on Finance with the following amendments thereto:

First: By striking out Secs. 9 (small school support), and 10 (small school support transition) and inserting in lieu thereof the following:

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Second: By adding a new section to be numbered Sec. 20a to read as follows:

Sec. 20a. REPORT ON METRICS FOR EVALUATION

(a) On or before December 15, 2015, the Agency of Education shall report to the General Assembly with recommendations for establishing a consistent method of evaluating the performance of:

(1) pre-kindergarten programs in each school district; and

(2) special education programs in each supervisory union or school district.

(b) The recommendations under subsection (a) of this section shall consider the findings of the report required under 2014 Acts and Resolves No. 95, Sec. 79a and shall be consistent with the efforts taken by the Agency to develop consistent longitudinal student and financial data in 2014 Acts and Resolves No. 179, Secs. E.500.1 through E.500.3, allowing for district-to-district comparisons to support education-related decisions at the State and local level.

Third: By striking out Secs. 35 and 36 (tuition; statewide average rate) and their related reader assistance heading and inserting in lieu thereof the following:

Sec. 35. [Deleted.]

Sec. 36. [Deleted.]

Fourth: By striking out Sec. 38 (systems evaluation) and its related reader assistance heading and inserting in lieu thereof the following:

Sec. 38. [Deleted.]

Fifth: In Sec. 39 (effective dates), by striking out subsections (g) (merger support grants), (h) (small school support), (q) (agency coordination), (z) (tuition amounts), and (bb) (systems evaluation) in their entirety, and inserting a new subsection (q) to read as follows:

(q) Secs. 20 (Agencies of Education and of Human Services; coordination) and 20a (report) shall take effect on passage.

(Committee vote: 4-3-0)

#### **H. 480.**

An act relating to making miscellaneous technical and other amendments to education laws.

#### **Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Elementary Education; Prekindergarten \* \* \*

Sec. 1. 16 V.S.A. § 11(a)(3) is amended to read:

(3) "Elementary education" means a program of public school education adapted to the needs of students in prekindergarten, kindergarten, and the first six grades.

\* \* \* School Boards; Designation; Technical Correction \* \* \*

Sec. 2. 16 V.S.A. § 563(31) is amended to read:

(31) Subject to the requirements of section 571 of this title, may enter into contracts with other school boards to provide joint programs, services, facilities, and professional or other staff. ~~Nothing herein shall be construed to permit the designation by a school district that does not maintain a secondary school of another school district's secondary school as the secondary school of the district.~~

\* \* \* Sight and Hearing Testing; Equipment \* \* \*

Sec. 3. REPEAL

16 V.S.A. § 1421 (sight and hearing testing equipment) is repealed.

\* \* \* Vermont State Colleges; Technical Correction \* \* \*

Sec. 4. 16 V.S.A. § 2179 is amended to read:

§ 2179. NONAPPLICABILITY OF CERTAIN STATUTES

Except as expressly provided in this chapter, the Corporation, its officers and employees shall not be governed by:

\* \* \*

(9) 21 V.S.A. § 342~~(d)~~(c), dealing with required written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the State.

\* \* \* Tiered System of Supports \* \* \*

Sec. 5. 16 V.S.A. § 2902 is amended to read:

§ 2902. ~~EDUCATIONAL SUPPORT SYSTEM~~ TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain ~~an educational support system for students who require additional assistance in order~~ a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the ~~educational support system~~ tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The ~~educational support system~~ school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team and a range of support and remedial services, including, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The ~~educational support system~~ tiered system of supports shall:

(1) Be ~~integrated to the extent~~ aligned as appropriate with the general education curriculum.

(2) Be designed to ~~increase~~ enhance the ability of the general education system to meet the needs of all students.

(3) ~~Be designed to provide students the support needed~~ necessary supports promptly, regardless of an individual student's eligibility for categorical programs.

(4) ~~Provide clear procedures and methods for addressing student behavior that is disruptive to the learning environment and include educational options, support services, and consultation or training for staff where appropriate. Procedures may include removal of a student from the classroom or the school building for as long as appropriate, consistent with state and federal law and the school's policy on student discipline, after reasonable effort has been made to support the student in the regular classroom environment~~ Seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports.

(5) ~~Ensure~~ Provide all students with a continuum of evidence-based and research-based behavior practices that teach and encourage prosocial skills and behaviors schoolwide.

(6) Promote collaboration with families, community supports, and the system of health and human services.

\* \* \*

\* \* \* Small School Support; Outdated References \* \* \*

#### Sec. 6. REPEAL

16 V.S.A. § 4015(d) (small school support; references to two repealed provisions) is repealed.

\* \* \* Education Fund; Technical Correction \* \* \*

Sec. 7. 16 V.S.A. § 4025 is amended to read:

#### § 4025. EDUCATION FUND

(a) An Education Fund is established to comprise the following:

\* \* \*

(4) ~~Revenue from the electric generating plant education property tax under 32 V.S.A. § 5402a. [Repealed.]~~

\* \* \*

\* \* \* Effective Date \* \* \*

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

(Committee vote: 5-0-1)

(For House amendments, see House Journal for March 20, 2015, page 612)

**Reported favorably by Senator MacDonald for the Committee on Finance.**

(Committee vote: 6-0-1)

**Amendment to proposal of amendment of the Committee on Education to H. 480 to be offered by Senator Degree**

Senator Degree moves to amend the proposal of amendment of the Committee on Education by striking out Sec. 8 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 8 and 9 to read as follows:

\* \* \* Governance of the Vermont State Colleges; Technical Correction \* \* \*

Sec. 8. 16 V.S.A. § 2172(d) is amended to read:

(d) ~~The Governor, in the case of gubernatorial-appointed trustees, or the Board of Trustees, in the case of Board-elected trustees:~~

(1) The Board of Trustees, after notice and a hearing, may remove a trustee for incompetency, failure to discharge duties, malfeasance, illegal acts, or other cases inimical to the welfare of the Corporation; ~~and~~.

(2) Gubernatorial-appointed trustees shall serve at the pleasure of the Governor pursuant to 3 V.S.A. § 2004.

(3) ~~in~~ In the event of a vacancy occurring under this subsection, the Governor or the Board, as applicable, shall fill the vacancy pursuant to subsection (a) of this section.

\* \* \* Effective Dates \* \* \*

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1-7 shall take effect on July 1, 2015.

(b) Sec. 8 (16 V.S.A. § 2172(d)) shall take effect on July 16, 2015.

**Amendment to proposal of amendment of the Committee on Education to H. 480 to be offered by Senator White**

Senator White moves to amend the proposal of amendment of the Committee on Education by adding a new section to be Sec. 4a to read as follows:

\* \* \* University of Vermont and State Agricultural College \* \* \*

Sec. 4a. 16 V.S.A. § 2285 is added to read:

§ 2285. NONAPPLICABILITY OF CERTAIN REQUIREMENTS FOR  
PAYMENT OF WAGES

Except as expressly provided in this chapter, the University of Vermont and State Agricultural College and its Board of Trustees, officers, and employees shall not be subject to the provisions of 21 V.S.A. § 342(c) that require written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the State.

**H. 484.**

An act relating to miscellaneous agricultural subjects.

**Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Agriculture.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Agricultural Water Quality; Financial Assistance \* \* \*

Sec. 1. 6 V.S.A. § 4815(c) is amended to read:

(c) ~~For purposes of~~ As used in this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an ~~in-ground or above-ground~~ inground and aboveground structure, or any combination thereof. ~~This section does not apply to concrete slabs used for agricultural waste management.~~

Sec. 2. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “AAPs” means “accepted agricultural practices” as defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets pursuant to subchapter 1 of this chapter.

(2) “Secretary” means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

(3) “Agency” means the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

\* \* \*

(6) “Good standing” means the participant:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; or

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

Sec. 3. 6 V.S.A. § 4821 is amended to read:

§ 4821. ASSISTANCE PROGRAM CREATED; ADMINISTRATION

(a) Program created. A program is created to provide ~~state~~ State financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the ~~state~~ State of Vermont, consistent with goals of the federal Water Pollution Control Act and with ~~state~~ State water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the ~~state~~ State shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

(b) Program administration. The ~~secretary~~ Secretary shall:

(1) ~~administer~~ Administer the ~~state~~ State assistance program, for which purpose the ~~secretary~~ Secretary shall coordinate with officials of the U.S. Department of Agriculture or other federal agencies, and shall adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3 concerning farmer application and eligibility requirements, financial assistance award priorities, and other administrative and enforcement conditions; ~~and~~.

(2) ~~may~~ May provide technical assistance to individual farmers with the preparation of on-farm agricultural waste management plans, applications for ~~state~~ State and federal financial assistance awards, installation of on-farm improvements, and maintenance of acceptable operating standards during the ~~life of a state assistance award contract~~ term of the program grant agreement. For this purpose, ~~state~~ State employees of the ~~agency~~ Agency shall cooperate with federal employees of the U.S. Department of Agriculture or other federal agencies.

Sec. 4. 6 V.S.A. § 4822 is amended to read:

§ 4822. ELIGIBILITY FOR STATE ASSISTANCE

Vermont farmers shall be eligible to receive available ~~state~~ State financial assistance with the installation of on-farm improvements designed to control agricultural nonpoint source waste discharges, provided that:

(1) for farmers who also seek federal financial assistance for this purpose, the improvements:

(A) are eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with a “nutrient management plan” prepared by the Vermont field office of the NRCS, or with an animal waste management plan based on standards equivalent to those of the NRCS; or

(2) for farmers who decline to seek or accept federal financial assistance for this purpose, the improvements:

(A) are determined by the ~~secretary~~ Secretary to be equivalent to those eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with an animal waste management plan based on standards determined by the ~~secretary~~ Secretary to be equivalent to those of the NRCS; and

(3) improvements will be constructed on a farm that is in good standing with the Secretary at the time of the award on all grant agreements, contract awards, or enforcement proceedings.

Sec. 5. 6 V.S.A. § 4824 is amended to read:

§ 4824. STATE FINANCIAL ASSISTANCE AWARDS

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a State grant is intended to match federal financial assistance for the same on-farm improvement project, the State grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a State grant shall pay at least 10 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a State grant shall not exceed 90 percent of the total eligible project cost.

(b) ~~Farmer contract.~~ A State grant awarded to an applicant under this subchapter shall be awarded in accordance with a State ~~contract~~ grant containing ~~contract~~ terms substantially the same as those required for receipt of a federal award for the same purpose from the U.S. Department of Agriculture, except as provided by the Secretary by rule.

Sec. 6. 6 V.S.A. § 4826 is amended to read:

§ 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using ~~state~~ State or federal funds, or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary. ~~As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section shall apply to concrete slabs used for agricultural waste management.~~

(b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the AAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title from the remaining requirements of the owner's or operator's permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(c) The owner or operator of a farm with a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for the costs of complying with the U.S. Department of Agriculture Natural Resources Conservation Service requirements for

inspection of a waste storage facility. Such grants shall not exceed 90 percent of the cost of the inspection of the waste storage facility. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

Sec. 7. 6 V.S.A. § 4827(e) and (f) are amended to read:

(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(f) The Secretary may ~~contract~~ enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

Sec. 8. 6 V.S.A. § 4828 is amended to read:

#### § 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to ~~state~~ State waters, improve water quality of State waters, reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined ~~by rule~~ by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site which is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) [Repealed.]

Sec. 9. 6 V.S.A. § 4849 is amended to read:

§ 4849. RECYCLING ANIMAL WASTE NUTRIENTS

In order to best use the nutrients of animal waste generated by large farm operations, the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets together with the ~~department of public service~~ Department of Public Service shall use available resources to inform large farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses.

Sec. 10. 6 V.S.A. § 4850 is amended to read:

§ 4850. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Domestic fowl” means laying-hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(2) “Livestock” means cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, or goats, horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 11. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

(b) A person shall apply for a permit in order to operate a farm which exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive

this permit, the person shall demonstrate to the ~~secretary~~ Secretary that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(c) The ~~secretary~~ Secretary shall approve, condition, or disapprove the application within 45 business days of the date of receipt of a complete application for a permit under this section. Failure to act within the 45 business days shall be deemed approval.

(d) A person seeking a permit under this section shall apply in writing to the ~~secretary~~ Secretary. The application shall include a description of the proposed barn or expansion of livestock or domestic fowl; a proposed nutrient management plan to accommodate the number of livestock or domestic fowl the barn is designed to house or the farm is intending to expand to; and a description of the manure management system to be used to accommodate agricultural wastes.

(e) The ~~secretary~~ Secretary may condition or deny a permit on the basis of odor, noise, traffic, insects, flies, or other pests.

(f) Before granting a permit under this section, the ~~secretary~~ Secretary shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a 25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(g) A farm that is permitted under this section and that withdraws more than 57,600 gallons of groundwater per day averaged over any 30 consecutive-day period shall annually report estimated water use to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall share information reported under this subsection with the ~~agency of natural resources~~ Agency of Natural Resources.

Sec. 12. 6 V.S.A. § 4856 is amended to read:

§ 4856. ~~RECYCLING ANIMAL WASTE NUTRIENTS~~

~~In order best to use the nutrients of animal waste generated by farms to which this subchapter applies, the agency of agriculture, food and markets, together with the department of public service, shall use available resources to inform operators of such farms of appropriate methods and resources available~~

~~to digest and compost their animal wastes and to capture methane for beneficial uses. [Repealed.]~~

Sec. 13. 6 V.S.A. § 4857 is amended to read:

§ 4857. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Animal feeding operation” (AFO) means a lot or facility where the livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO which are under common ownership and which adjoin each other or use a common area or system for the disposal of waste, shall be considered to be a single AFO if the combined number of livestock or domestic fowl resulting qualifies as a medium farm as defined in subdivision (2) of this section.

(2) “Medium farm” is an AFO which houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow/calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing less than 55 pounds, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure handling system or 10,000 to 29,999 ducks without a liquid manure handling system.

(3) “Small farm” is an AFO which houses no more than 199 mature dairy animals, 299 cattle or cow/calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999 swine weighing less than 55 pounds, 149 horses, 2,999 sheep or lambs, 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling system, 24,999 laying hens without a liquid manure handling system, 37,499 chickens other than laying hens without a liquid manure handling system, 1,499 ducks with a liquid manure handling system or 9,999 ducks without a liquid manure handling system.

(4) “Domestic fowl” means laying hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(5) “Livestock” means cattle, swine, sheep, goats, and horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 14. 6 V.S.A. § 4858(c) is amended to read:

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title.

\* \* \*

(d) Medium and small farms; individual permit. The ~~secretary~~ Secretary may require the owner or operator of a small or medium farm to obtain an individual permit to operate after review of the farm's history of compliance, application of accepted agricultural practices, the use of an experimental or alternative technology or method to meet a ~~state~~ State performance standard, or other factors set forth by rule. The owner or operator of a small farm may apply to the ~~secretary~~ Secretary for an individual permit to operate under this section. To receive an individual permit, an applicant shall in a manner prescribed by rule demonstrate that the farm has an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with

accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards, including setback requirements for waste application. An individual permit shall be valid for no more than five years. Any application for an individual permit filed under this subsection shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~agency of natural resources~~ Agency of Natural Resources, shall review any application for a permit under this subsection and, prior to issuance of an individual permit under this subsection, shall issue a written determination regarding whether the permit applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to federal regulations for concentrated animal feeding operations. If, upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a medium or small farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations. Coverage of a medium farm under a general permit adopted pursuant to this section or an individual permit issued to a medium or small farm under this section is rendered void by the issuance of a permit to a farm under 10 V.S.A. § 1263.

Sec. 15. 6 V.S.A. chapter 215, subchapter 6 is amended to read:

Subchapter 6. Vermont ~~Agricultural Buffer~~ Critical Area Seeding and Filter Strip Program

§ 4900. VERMONT ~~AGRICULTURAL BUFFER~~ SEEDING AND FILTER STRIP PROGRAM

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets is authorized to develop a Vermont ~~agricultural buffer~~ critical source area seeding and filter strip program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative ~~buffers and installing conservation practices in ditch networks~~ grassed waterways and filter strips on agricultural ~~land~~ cropland perpendicular and adjacent to the surface waters of the ~~state~~ State, including ditches. Eligible acreage would include

annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

~~(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed the combined federal and state payment that the relevant agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment~~ Incentive payments from the Agency of Agriculture, Food and Markets shall be made annually at the end of the cropping season for a nonrenewable five-year period at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

~~(c) The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont ~~agricultural buffer~~ critical source area seeding and filter strip program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

Sec. 16. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices ~~shall~~ may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;

- (4) cross-slope tillage;
  - (5) zone or no-tillage;
  - (6) pre-sidedress nitrate tests;
  - (7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;
  - (8) educational and instructional activities to inform the farmers and citizens of Vermont of:
    - (A) the impact on Vermont waters of agricultural waste discharges;
    - (B) the federal and State requirements for controlling agricultural waste discharges;
  - (9) implementing alternative manure application techniques; and
  - (10) additional soil erosion reduction practices.
- (b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

\* \* \* Agency of Agriculture, Food and Markets Permitting \* \* \*

Sec. 17. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) ~~The agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets shall be administered by a ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary~~ Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The ~~secretary~~ Secretary may:

\* \* \*

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the ~~secretary~~ Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle;

and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the ~~secretary~~ Secretary where the annual fee is more than \$125.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary;

\* \* \*

\* \* \* Dairy Operations; Drugs \* \* \*

Sec. 18. 6 V.S.A. § 2744a is amended to read:

§ 2744a. DRUGS

(a) No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

~~(1) In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer or handler for a period of up to two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer from selling milk in this state. No handler or dealer shall accept milk from a producer whose ability to sell milk is suspended or terminated.~~

~~(2) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's or handler's control that occurred as a result of purchasing the contaminated milk, as an equivalent penalty.~~

(1) In the event that milk from a dairy producer contains a drug residue:

(A) No more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative.

(B) If a second drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of one day of milk production assessed.

(C) If a third drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of two days of milk production assessed. A hearing shall be warned to determine if the producer will be allowed to continue to ship milk.

(2) No handler or dealer shall accept milk from:

(A) a producer after a drug residue violation has occurred until a sample of at least one complete milking has been found negative; or

(B) a producer whose ability to sell milk is suspended or terminated.

(3) A producer who fails to pay an administrative penalty issued under this section within 30 days of issuance of a citation for violation of this section shall have his or her ability to sell milk suspended until the administrative penalty is paid. In lieu of suspending a producer's ability to sell milk, the Secretary may accept the assessment by the milk dealer against the producer.

~~(3)~~(4) Notwithstanding the provisions of subsection (c) of this section, the secretary Secretary may at any time issue an emergency order prohibiting a producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell livestock for slaughter which contains livestock with bodily tissue containing any drug or drugs in excess of tolerances established by the United States U.S. Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that bodily tissue obtained from livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the United States U.S. Food and Drug Administration in the Code of Federal Regulations at the time of sale, the secretary Secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation and may require the farm to participate in a program approved by the Agency intended to mitigate further selling of animals for food that contain violative drug residues in their tissue.

(c) Before issuing an order or administrative penalty under this section, the ~~secretary~~ Secretary shall provide the producer and the handler or dealer an opportunity for hearing.

\* \* \* Weights and Measures \* \* \*

Sec. 19. 9 V.S.A. § 2633 is amended to read:

§ 2633. SPECIFIC POWERS AND DUTIES OF SECRETARY;  
REGULATIONS

(a) The Secretary shall issue from time to time reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law. These regulations may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties, (3) exemptions from the sealing or marking requirements of section 2639 of this title with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in section 2635 of this title, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are faulty—that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly—or (3) that facilitate the perpetration of fraud.

(b) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in National Institute of Standards and Technology Handbook 44, “Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices,” and supplements thereto, or revisions thereof, shall apply to weighing and measuring devices in the State, except insofar as modified or rejected by regulation.

(c) The uniform regulation for packaging and labeling, the uniform regulation for unit pricing, and the uniform regulation for the method of sale of commodities, except for bread, as adopted by the national conference on weights and measures, and published by the National Institute of Standards and Technology Handbook 130, “Uniform Laws and Regulations,” together with

amendments, supplements, and revisions thereto, are adopted as part of this chapter except as modified or rejected by regulation.

\* \* \* VEDA; Water Quality Initiatives \* \* \*

Sec. 20. 10 V.S.A. § 280a is amended to read:

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

\* \* \*

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding ~~stream stability and conservation reserve enhancement environmental~~ water quality initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate.

\* \* \*

Sec. 21. VEDA FINANCING OF WATER QUALITY INITIATIVES

Notwithstanding 32 V.S.A. § 706, the Vermont Economic Development Authority is authorized to transfer to the Agency of Agriculture, Food and Markets or the Agency of Natural Resources funds held by VEDA for water quality programs pursuant to 10 V.S.A. § 280a(11).

\* \* \* Working Lands Enterprise Program \* \* \*

Sec. 22. 6 V.S.A. § 4604 is amended to read:

§ 4604. LEGISLATIVE INTENT

It is the intent of the General Assembly in adopting this subchapter to create a working lands enterprise board to administer a fund and develop policy recommendations to:

\* \* \*

(8) increase the amount of State investment in working lands enterprises, particularly when it leverages private and philanthropic funds; ~~and~~

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs; and

(10) provide priority funding to agricultural and forest product enterprises. The priority for funding agricultural and forest product enterprises is not intended to exclude funding for technical assistance that directly supports enterprise development.

Sec. 23. 6 V.S.A. § 4606(b) is amended to read:

(b) Organization of Board. The Board shall be composed of:

(1) the Secretary of Agriculture, Food and Markets or designee, who shall serve as chair;

(2) the Commissioner of Forests, Parks and Recreation or designee;

(3) the Secretary of Commerce and Community Development or designee;

(4) the following members appointed by the Speaker of the House:

(A) one member who is a ~~representative of the Vermont forest industry who is also a~~ consulting forester;

(B) one member who is actively engaged in ~~commodity~~ maple production;

(C) one member who is actively engaged in on-farm value-added processing;

(D) one member who is actively engaged in manufacturing or distribution of Vermont agricultural products; and

(E) one member with expertise in sales, marketing, or market development;

(5) the following members appointed by the Senate Committee on Committees:

(A) one member who is actively engaged in wood products manufacturing;

~~(B) one member who is a representative of one of the two largest membership based agricultural organizations in Vermont who is not a dairy farmer involved in production agriculture whose primary enterprise is not fluid milk;~~

(C) one member who is actively engaged in primary wood processing or logging;

(D) one member who is an agriculture and forestry enterprise funder; and

(E) one member who is a person with expertise in rural economic development; and

(6) the following members appointed by the Governor:

(A) one member who is a representative of Vermont's dairy industry who is also a dairy farmer;

(B) one member who is a representative of ~~a membership-based forestland owner organization~~ Vermont's forestry industry who is also a working forest landowner;

(C) one member with expertise in land planning and conservation efforts that support Vermont's working landscape; and

(D) one member who is an employee of a Vermont institution engaged in agriculture or forestry education, training, or research; and

~~(7) the following members appointed by the Vermont Agricultural and Forest Products Development Board:~~

~~(A) one member who is actively engaged in value-added agricultural products manufacturing; and~~

~~(B) two members actively engaged in providing marketing assistance, market development, or business and financial planning;~~

~~(8)~~(7) the following members, who shall serve as ex officio, nonvoting members:

(A) the Manager of the Vermont Economic Development Authority or designee;

(B) the Executive Director of the Vermont Sustainable Jobs Fund or designee; and

(C) the Executive Director of the Vermont Housing Conservation Board or designee.

Sec. 24. 6 V.S.A. § 4607 is amended to read:

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Duties. The Vermont Working Lands Enterprise Board is charged with:

(1) optimizing the agricultural and forest use of Vermont lands and other agricultural resources;

(2) expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(3) identifying opportunities and challenges related to access to capital, infrastructure, product development, marketing, training, research, and education.

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

(1) to design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the Board's activities;

(2) to gain information through the use of experts, consultants, and data to perform analysis as needed;

(3) to request services from State economists, State administrative agencies, and State programs;

(4) to obtain information from other planning entities, including the Farm to Plate Investment Program;

(5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals set forth in section 4604 of this title;

~~(4)~~(6) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;

~~(2)~~(7) to award grants and other investments, which may include loans underwritten and administered through the Vermont Economic Development Authority;

~~(3)~~(8) to enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) organizational, regulatory, and development assistance; and

(D) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;

~~(4)~~(9) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors after consulting with the Department of Labor;

~~(5)~~(10) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis;

(D) other considerations the Board determines appropriate; and

~~(6)~~(11) ~~to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms.~~ to develop an annual operating budget, and:

(A) solicit and accept any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5; and

(B) expend any monies necessary to carry out the purposes of this section.

~~(b)~~(c) Staff support. The Agency of Agriculture, Food and Markets shall provide administrative support to the extent authorized by the Secretary of Agriculture, Food and Markets, and with the assistance of the Department of Forests, Parks and Recreation to the extent authorized by the Commissioner of Forests, Parks and Recreation, in order to support the ~~board~~ Board in the performance of its duties pursuant to this section.

Sec. 25. REPEAL OF VERMONT AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD

6 V.S.A. § 2966 (Agricultural and Forest Products Development Board) shall be repealed on July 1, 2015.

\* \* \* Animal Shelter \* \* \*

Sec. 26. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

\* \* \*

(c)(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs. The shelter shall be constructed of materials with a thermal resistance factor of 0.9 or greater and shall contain clean bedding material sufficient to retain the dog's normal body heat.

\* \* \*

(e) A dog maintained out-of-doors ~~must~~ shall be provided with suitable housing or shelter that ~~assures~~ ensures that the dog is protected from wind and draft, and from excessive sun, rain, and other environmental hazards throughout the year. The housing or shelter shall be fully enclosed except for a portal. The portal shall be of a sufficient size to allow the dog unimpeded passage into and out of the structure. The portal shall be constructed with a baffle or other means of keeping wind and precipitation out of the interior. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

(f) A dog chained to a shelter must be on a tether chain at least ~~four~~ five times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter. The chain or tether shall be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether shall be attached to a well-fitted collar or harness on the dog.

\* \* \*

\* \* \* Agricultural Equipment \* \* \*

Sec. 27. 32 V.S.A. § 9741(25) is amended to read:

(25) ~~Sales~~ Sale to a farmer, as that term is defined in section 3752 of this title, of agricultural machinery and equipment for use and consumption directly and exclusively, except for isolated or occasional uses, in the production for sale of tangible personal property on farms (including stock, dairy, poultry, fruit, and truck farms), orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than ~~four~~ 50 percent of the time the machinery or equipment is operated.

\* \* \* Motor Fuel Oil Prices; Agricultural Economy \* \* \*

Sec. 28. MOTOR FUEL OIL PRICES; STUDY

(a) Findings. The General Assembly finds as follows:

(1) The price of motor fuel has a major effect on Vermonters and our economy as a whole, particularly the agricultural sector of our economy.

(2) In recent years, it has become apparent that, although fuel prices have decreased nationally and across Vermont, this cost reduction has not kept pace in the State's northwestern communities.

(3) Based on the most recent census data collected by the U.S. Department of Agriculture, in the year 2012 there were 1,444 farms spanning 278,897 acres in Chittenden, Franklin, and Grand Isle Counties.

(4) Combined, the gasoline, fuel, and oil expenses for the farms in those three counties were \$14.712 million.

(5) It is incumbent upon the proper authorities to ensure to the greatest extent possible that farm production expenses reflect fair pricing so that the many agricultural products placed into the greater stream of commerce are competitively priced.

(b) Definitions. As used in this section:

(1) "Control" means the power, whether or not exercised, to establish, fix, or direct the retail price of motor fuel sold by a dealer, through ownership of stock or assets used by the dealer or through contract, agency, consignment, or otherwise, whether that power can be exercised directly or indirectly or through parent corporations, subsidiaries, related persons and entities, or affiliates.

(2) "Dealer" means a person located in Vermont that sells motor fuel oil to an end user at a service station, filling station, or otherwise.

(3) "Distributor" means a person that sells motor fuel oil to a dealer or directly to an end user.

(4) "Motor fuel oil" means internal combustion fuel sold for use in a motor vehicle, as that term is defined in 23 V.S.A. § 4(21), or in a farm tractor, as that term is defined in 23 V.S.A. § 4(68).

(5) "Motor fuel oil sales" means the wholesale or retail sale of motor fuel oil.

(c) Reporting. On or before December 15, 2015, the Attorney General may require distributors and dealers to provide information about the ownership or control of dealers or of assets related to motor fuel oil sales, volume of motor fuel oil sold or supplied, and wholesale and retail motor fuel oil prices.

(d) Confidentiality. Information received by the Attorney General under this section is confidential and shall be treated in the same manner as provided in 9 V.S.A. § 2460(a)(4).

(e) Report. The Attorney General shall study any data deemed relevant to the retail price of motor fuel oil in Vermont, including the data identified in subsection (c) of this section, and, on or before December 15, 2015, shall report to the General Assembly with recommendations, if any, regarding market conduct, including pricing, in the motor fuel oil industry in Vermont.

(f) Exercise of authority. The authority of the Attorney General under subsection (c) of this section to require reporting of distributors and dealers shall be exercised only with respect to the requirements of this section and shall not be exercised after December 15, 2015.

\* \* \* Unpasteurized Milk \* \* \*

Sec. 29. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

\* \* \*

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

\* \* \*

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination; according to accepted testing and ~~vaccinations~~ vaccination standards as established by the Agency.

(B) Prior to the use of a dairy animal for the production and sale of unpasteurized milk under this chapter, a producer of unpasteurized milk shall test the dairy animal for brucellosis and tuberculosis. The producer shall test the dairy animal used for production and sale of unpasteurized milk for brucellosis and tuberculosis every two years from the date of the first test for brucellosis and tuberculosis accordingly.

~~(C) Test~~ A producer shall post test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible shall make results available to customers and the Agency.

\* \* \*

(d) Unpasteurized milk shall conform to the following production and marketing standards:

\* \* \*

(6) Customer inspection and notification.

~~(A) Prior to selling milk to a new customer, the new customer shall visit the farm and the~~ The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B) A sign with the words “Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated.” and “This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

~~(e) Producers~~ A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this title.

~~(f) Producers~~ A producer selling ~~6~~ more than 87.5 gallons to ~~280~~ 350 gallons (more than 350 to ~~1,120~~ 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

\* \* \*

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using

accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

- (i) total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);
- (ii) total coliform count: 10 cfu/ml (cattle and goats);
- (iii) somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall ~~assure~~ ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

\* \* \*

(D) The Secretary shall issue a warning to a producer when a monthly test exceeds the limits required under subdivision (3)(A) of this subsection (f). The producer shall retest unpasteurized milk from the farm no later than one week from the date of receipt of the test results indicating that unpasteurized milk exceeded the limits required under subdivision (3)(A) of this subsection.

(E) If a retest of unpasteurized milk under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the Secretary shall suspend the authority of the producer under this chapter to sell unpasteurized milk until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this subsection.

(F) If a retest required under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the producer shall warn customers that unpasteurized milk from the farm exceeds one or more of the limits required under subdivision (3)(A) of this subsection until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this subsection. The producer may provide the warning by posting the test results on a sign that is located in a prominent manner and that is clearly visible to consumers at the point of delivery or by directly notifying customers.

\* \* \*

(6) ~~Prearranged~~ Off-farm delivery. ~~Prearranged~~ The delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this title.

(g) The sale of more than ~~280~~ 350 gallons (~~1,120~~ 1,400 quarts) of unpasteurized milk in any one week is prohibited.

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by ~~those producers~~ a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to ~~customers who have~~ a customer who has:

~~(A) visited the farm as required under subdivision 2777(d)(4) of this title; and~~

~~(B) purchased milk in advance either by a one-time payment or through a subscription. Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery.~~

(2) ~~Delivery shall be~~ A producer may deliver directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor;

(3) During delivery, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, ~~on a form provided by the Agency,~~ written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

\* \* \* Effective Dates \* \* \*

#### Sec. 30. EFFECTIVE DATES

(a) This section and Sec. 29 (unpasteurized milk) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2015.

(Committee vote: 4-0-1)

(No House amendments)

**Reported favorably with recommendation of proposal of amendment by Senator Ashe for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 27 (agricultural equipment; sales and use tax) in its entirety and inserting in lieu thereof the following:

Sec. 27. [Deleted.]

(Committee vote: 6-0-1)

#### **H. 492.**

An act relating to capital construction and State bonding.

**Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Institutions.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

#### Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$157,207,752.00 authorized in this act, no more than \$80,068,449.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Act. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

## Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2016:

<u>(1) Statewide, asbestos:</u>	<u>\$50,000.00</u>
<u>(2) Statewide, building reuse and planning:</u>	<u>\$75,000.00</u>
<u>(3) Statewide, contingency:</u>	<u>\$100,000.00</u>
<u>(4) Statewide, elevator repairs and replacement:</u>	<u>\$100,000.00</u>
<u>(5) Statewide, major maintenance:</u>	<u>\$8,210,287.00</u>
<u>(6) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,567,791.00</u>
<u>(7) Statewide, physical security enhancements:</u>	<u>\$200,000.00</u>
<u>(8) Burlington, 32 Cherry Street, HVAC controls upgrades:</u>	<u>\$150,000.00</u>
<u>(9) Burlington, 108 Cherry Street, garage and structural audit:</u>	<u>\$50,000.00</u>
<u>(10) Montpelier, 120 State Street, life safety and infrastructure improvements:</u>	<u>\$300,000.00</u>
<u>(11) Montpelier, Department of Labor, parking lot expansion:</u>	<u>\$450,000.00</u>
<u>(12) Middlesex, State Archives, renovations:</u>	<u>\$660,000.00</u>
<u>(13) Newport, Northern State Correctional Facility, maintenance shop:</u>	<u>\$450,000.00</u>

(14) Randolph, Agency of Agriculture, Food and Markets and Agency of Natural Resources, collaborative laboratory, finalizing design and construction documents, bid proposal, and permitting: \$2,500,000.00

(15) Southern State Correctional Facility, construction of Phase I of the steamline replacement, design and cost estimation for Phase II: \$1,200,000.00

(16) Southern State Correctional Facility, copper waterline replacement and project-related costs: \$1,829,086.00

(17) St. Johnsbury, Caledonia Courthouse, stabilize foundation: \$1,700,000.00

(18) Pittsford, Training Center, electrical system upgrade: \$120,000.00

(19) Waterbury State Office Complex, complex restoration, and project-related costs: \$19,151,826.00

(20) White River Junction, Windsor Courthouse, design and planning for mechanical, electrical and plumbing, security and energy upgrades: \$300,000.00

(21) Colchester, Woodside Juvenile Rehabilitation Center, project design and planning, and begin repairs and improvements: \$200,000.00

(c) The following sums are appropriated in FY 2017:

(1) Statewide, asbestos: \$50,000.00

(2) Statewide, building reuse and planning: \$75,000.00

(3) Statewide, contingency: \$100,000.00

(4) Statewide, elevator repairs and replacement: \$100,000.00

(5) Statewide, major maintenance: \$8,000,000.00

(6) Statewide, BGS engineering and architectural project costs: \$3,677,448.00

(7) Statewide, physical security enhancements: \$200,000.00

(8) Montpelier, 115 State Street, State House lawn, access improvements and water intrusion: \$300,000.00

(9) Montpelier, 120 State Street, life safety and infrastructure improvements: \$1,000,000.00

(10) Randolph, Agency of Agriculture, Food and Markets and Agency of Natural Resources, collaborative laboratory, site construction:

\$16,931,385.00

(11) Southern State Correctional Facility, copper waterline replacement:

\$1,100,000.00

(12) Pittsford, Training Center, electrical system upgrade: \$500,000.00

(13) Statewide, strategic building realignments: \$300,000.00

(d) Any funds remaining from the amount appropriated in subdivision (b)(19) for restoration and projected-related costs at the Waterbury State Office Complex shall be directed toward the beginning phases of design and fit up of the Weeks and Hanks buildings.

Appropriation – FY 2016 \$41,363,990.00

Appropriation – FY 2017 \$32,333,833.00

Total Appropriation – Section 2 \$73,697,823.00

### Sec. 3. ADMINISTRATION

(a) The following sums are appropriated to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

(1) \$125,000.00 is appropriated in FY 2016.

(2) \$125,000.00 is appropriated in FY 2017.

(b) The following sums are appropriated to the Department of Finance and Management for the ERP expansion project (Phase II):

(1) \$5,000,000.00 is appropriated in FY 2016.

(2) \$9,267,470.00 is appropriated in FY 2017.

(c) The sum of \$6,000,000.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

Appropriation – FY 2016 \$5,125,000.00

Appropriation – FY 2017 \$15,392,470.00

Total Appropriation – Section 3 \$20,517,470.00

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2016 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

<u>(1) Corrections, perimeter intrusion:</u>	<u>\$100,000.00</u>
<u>(2) Corrections, camera and systems:</u>	<u>\$100,000.00</u>
<u>(3) Corrections, security upgrades and enhancements:</u>	<u>\$100,000.00</u>

(b) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

<u>(1) Corrections, perimeter intrusion:</u>	<u>\$100,000.00</u>
<u>(2) Corrections, security upgrades and enhancements:</u>	<u>\$100,000.00</u>
<u>Appropriation – FY 2016</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$200,000.00</u>
<u>Total Appropriation – Section 4</u>	<u>\$500,000.00</u>

Sec. 5. JUDICIARY

(a) The sum of \$180,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the Judiciary for ADA compliance at county courthouses.

(b) The following sums are appropriated in FY 2016 to the Judiciary:

<u>(1) Statewide court security systems and improvements:</u>	<u>\$150,000.00</u>
<u>(2) Judicial case management system:</u>	<u>\$750,000.00</u>

(c) The following sums are appropriated in FY 2017 to the Judiciary:

<u>(1) Statewide court security systems and improvements:</u>	<u>\$150,000.00</u>
<u>(2) Judicial case management system:</u>	<u>\$5,000,000.00</u>
<u>Appropriation – FY 2016</u>	<u>\$1,080,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$150,000.00</u>
<u>Total Appropriation – Section 5</u>	<u>\$6,230,000.00</u>

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2016 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Bennington Monument, elevator, roof repairs: \$118,000.00

(b) The following sums are appropriated in FY 2016 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers: \$15,000.00

(3) Unmarked burial fund: \$30,000.00

(c) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Bennington Monument, elevator, roof repairs: \$50,000.00

(d) The following sums are appropriated in FY 2017 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers: \$15,000.00

Appropriation – FY 2016 \$393,000.00

Appropriation – FY 2017 \$295,000.00

Total Appropriation – Section 6 \$688,000.00

#### Sec. 7. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2016 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made

available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$225,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$225,000.00

(b) The following sum is appropriated in FY 2016 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$225,000.00

(c) The following sums are appropriated in FY 2017 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$225,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$225,000.00

(d) The following sum is appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$225,000.00

(e) The following amounts are appropriated in FY 2016 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

(1) Human Services: \$120,000.00

(2) Educational Facilities: \$120,000.00

(f) The following amounts are appropriated in FY 2016 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

<u>(1) Human Services:</u>	<u>\$110,000.00</u>
<u>(2) Educational Facilities:</u>	<u>\$110,000.00</u>
<u>Appropriation – FY 2016</u>	<u>\$1,590,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$1,570,000.00</u>
<u>Total Appropriation – Section 7</u>	<u>\$3,160,000.00</u>

Sec. 8. EDUCATION

(a) The following sums are appropriated in FY 2016 to the Agency of Education for funding the State share of completed school construction projects pursuant to 16 V.S.A. § 3448 and emergency projects:

<u>(1) Emergency projects:</u>	<u>\$82,188.00</u>
<u>(2) School construction projects:</u>	<u>\$3,975,500.00</u>

(b) The sum of \$60,000.00 is appropriated in FY 2017 to the Agency of Education for State aid for emergency projects.

<u>Appropriation – FY 2016</u>	<u>\$4,057,688.00</u>
<u>Appropriation – FY 2017</u>	<u>\$60,000.00</u>
<u>Total Appropriation – Section 8</u>	<u>\$4,117,688.00</u>

Sec. 9. UNIVERSITY OF VERMONT

(a) The sum of \$1,400,000.00 is appropriated in FY 2016 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,400,000.00 is appropriated in FY 2017 to the University of Vermont for construction, renovation, and major maintenance.

<u>Total Appropriation – Section 9</u>	<u>\$2,800,000.00</u>
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Sec. 10. VERMONT STATE COLLEGES

(a) The following sums are appropriated in FY 2016 to the Vermont State Colleges:

<u>(1) Construction, renovation, and major maintenance:</u>	<u>\$1,400,000.00</u>
<u>(2) Engineering technology laboratories, plan, design, and upgrade:</u>	<u>\$1,000,000.00</u>

(b) The following sums are appropriated in FY 2017 to the Vermont State Colleges:

<u>(1) Construction, renovation, and major maintenance:</u>	<u>\$1,400,000.00</u>
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(2) Laboratory, plan, design, and upgrade: \$500,000.00

(c) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(2) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at the Vermont Technical College. The funds shall only become available after the Vermont Technical College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised to match the appropriation in subdivision (b)(2) of this section and finance additional costs of comprehensive laboratory improvements.

Appropriation – FY 2016 \$2,400,000.00

Appropriation – FY 2017 \$1,900,000.00

Total Appropriation – Section 10 \$4,300,000.00

#### Sec. 11. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

(2) the Water Pollution Control Fund, administrative support – engineering, oversight, and program management: \$300,000.00

(3) Drinking Water Supply, Drinking Water State Revolving Fund: \$1,750,834.00

(4) Drinking Water Supply, engineering oversight and project management: \$300,000.00

(5) EcoSystem restoration and protection: \$3,750,000.00

(6) Dam safety and hydrology projects: \$538,580.00

(7) Municipal Pollution Control Grants, principal and interest associated with funding for the Pownal project: \$530,000.00

(8) Municipal Pollution Control Grants, Waterbury waste treatment facility for phosphorous removal: \$379,929.00

(9) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$392,258.00

(b) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the projects described in this subsection:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$3,000,000.00

(2) Guilford, Sweet Pond: \$90,000.00

(c) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$1,125,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade: \$25,000.00

(d) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund for the Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

(2) the Water Pollution Control Fund, administrative support – engineering, oversight, and program management: \$300,000.00

(3) the Drinking Water Supply, Drinking Water State Revolving Fund: \$2,538,000.00

(4) the Drinking Water Supply, engineering oversight and project management: \$300,000.00

(5) EcoSystem restoration and protection: \$3,750,000.00

(6) Dam safety and hydrology projects: \$750,000.00

(e) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the projects described in this subsection:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$3,000,000.00

(2) Guilford, Sweet Pond: \$405,000.00

(f) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Fish and Wildlife:

<u>(1) General infrastructure projects:</u>	<u>\$875,000.00</u>
<u>(2) Lake Champlain Walleye Association, Inc. to upgrade:</u>	<u>\$25,000.00</u>
<u>Appropriation – FY 2016</u>	<u>\$13,481,601.00</u>
<u>Appropriation – FY 2017</u>	<u>\$13,243,000.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$26,724,601.00</u>

Sec. 12. MILITARY

(a) The following sums are appropriated in FY 2016 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds:

	<u>\$750,000.00</u>
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(2) Randolph, Vermont Veterans' Memorial Cemetery, agricultural mitigation for the proposed cemetery expansion:

	<u>\$59,759.00</u>
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(b) The sum of \$750,000.00 is appropriated in FY 2017 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds.

<u>Appropriation – FY 2016</u>	<u>\$809,759.00</u>
<u>Appropriation – FY 2017</u>	<u>\$750,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$1,559,759.00</u>

Sec. 13. PUBLIC SAFETY

(a) The sum of \$300,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the State's share of the Vermont Emergency Service Training Facility for site location and foundation construction of the new burn building at the Robert H. Wood Vermont Fire Academy. The Department of Public Safety may accept federal funds to support this project.

(b) The funds appropriated in subsection (a) of this section shall only become available after the Department of Public Safety has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of receipt of the federal match for the project.

<u>Total Appropriation – Section 13</u>	<u>\$300,000.00</u>
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Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The following sums are appropriated in FY 2016 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

<u>(1) Best Management Practices and Conservation Reserve Enhancement Program:</u>	<u>\$1,752,412.00</u>
<u>(2) Vermont Exposition Center Building, upgrades:</u>	<u>\$200,000.00</u>
<u>(3) Community and nonprofit agricultural water quality projects:</u>	<u>\$250,000.00</u>

(b) The following sums are appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

<u>(1) Best Management Practices and Conservation Reserve Enhancement Program:</u>	<u>\$1,800,000.00</u>
<u>(2) Vermont Exposition Center Building, upgrades:</u>	<u>\$115,000.00</u>

(c) On or before January 15, 2016, the Secretary of Agriculture, Food and Markets shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the projects funded from the appropriation in subdivision (a)(3) of this section.

<u>Appropriation – FY 2016</u>	<u>\$2,202,412.00</u>
<u>Appropriation – FY 2017</u>	<u>\$1,915,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$4,117,412.00</u>

#### Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2016 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2017 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Total Appropriation – Section 15</u>	<u>\$250,000.00</u>
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#### Sec. 16. VERMONT VETERANS' HOME

The sum of \$500,000.00 is appropriated in FY 2016 to the Vermont Veterans' Home for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining

connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Total Appropriation – Section 16 \$500,000.00

Sec. 17. VERMONT HISTORICAL SOCIETY

The sum of \$50,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the Vermont Historical Society (VHS) for a matching grant to reduce debt at the Vermont History Center in Barre. The funds shall only become available after the VHS notifies the Department that the funds have been matched.

Total Appropriation – Section 17 \$50,000.00

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The following amounts are appropriated in FY 2016 to the Vermont Housing and Conservation Board.

(1) Statewide, water quality improvement projects: \$2,750,000.00

(2) Housing: \$1,800,000.00

(b) The following amounts are appropriated in FY 2017 to the Vermont Housing and Conservation Board.

(1) Statewide, water quality improvement projects: \$1,000,000.00

(2) Housing: \$1,800,000.00

Appropriation – FY 2016 \$4,550,000.00

Appropriation – FY 2017 \$2,800,000.00

Total Appropriation – Section 18 \$7,350,000.00

Sec. 19. VERMONT INTERACTIVE TECHNOLOGIES

\$220,000.00 is appropriated in FY 2016 to the Vermont State Colleges on behalf of Vermont Interactive Technologies (VIT) for all costs associated with the dissolution of VIT's operations.

Total Appropriation – Section 19 \$220,000.00

Sec. 20. GENERAL ASSEMBLY

(a) The sum of \$120,000.00 is appropriated in FY 16 to the Office of Legislative Council budget on behalf of the Office of the Secretary of the Senate and the Office of the Clerk of the House for upgrades to the legislative international roll call (IRC) program. All work on the project described in this section shall be under the direction of the Secretary of the Senate, the Clerk of

the House, and the Office of the Legislative Council's Deputy Director of Information Technology.

(b) The sum of \$5,000.00 is appropriated in FY 17 to the Sergeant at Arms for security upgrades in the State House.

<u>Appropriation – FY 2016</u>	<u>\$120,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$5,000.00</u>
<u>Total Appropriation – Section 20</u>	<u>\$125,000.00</u>

\* \* \* Financing this Act \* \* \*

#### Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 1 (Bennington State Office Building): \$49,062.60

(2) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 16 (Ag various projects): \$352,412.25

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2(b) (State House committee renovations): \$28,702.15

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 13 (Public Safety review of State Police facilities): \$5,000.00

(5) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 17 (VT Public TV): \$856.00

(6) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (BGS engineering staff): \$58,236.66

(7) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (133 State Street foundation and parking lot): \$156,642.16

(8) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4 (DOC facilities assessment): \$19,913.12

(9) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 18a (E-911): \$9,940.00

(10) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 15 (VT Public TV): \$0.21

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of

Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 14 (Fish and Wildlife): \$0.07

(2) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 12 (DEC Water Pollution Control): \$6,981.00

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12, as amended by 2012 Acts and Resolves No. 104, Sec. 8 (drinking water project): \$35,483.32

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12 (Fish and Wildlife, Roxbury): \$128,802.00

(5) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12, as amended by 2012 Acts and Resolves No. 104, Sec 8 (Fish and Wildlife, Roxbury): \$87,204.00

(c) The following sums are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the proceeds from the sale of property authorized by 1996 Acts and Resolves No. 102, Sec. 1 (Duxbury land sale): \$45,556.36

(2) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25 (Building 617, Essex): \$7,078.21

(3) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25 (1193 North Avenue, Burlington): \$353,785.97

(4) of the proceeds from the sale of property authorized by 2011 Acts and Resolves No. 40, Sec. 2, as amended by 2012 Acts and Resolves No. 104, Sec. 3 (121 and 123 South Main Street, Waterbury): \$75,000.00

(5) of the proceeds from the sale of property authorized by 2011 Acts and Resolves No. 40, Sec. 2, as amended by 2012 Acts and Resolves No. 104, Sec. 3 (Ladd Hall, Waterbury): \$228,000.00

Total Reallocations and Transfers – Section 21 \$1,648,656.08

## Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$144,000,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or

issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is further authorized to issue additional general obligation bonds in the amount of \$11,559,096.05 that were previously authorized but unissued under 2014 Acts and Resolves No. 178 for the purpose of funding the appropriations of this act.

Total Revenues – Section 22 \$155,559,096.05

\* \* \* Policy \* \* \*

\* \* \* Buildings and General Services \* \* \*

Sec. 23. LEASING PROPERTY; FAIR MARKET VALUE

(a) It is the intent of the General Assembly that any leases for State-owned space in any State-owned building, structure, or other real property under the jurisdiction of the Commissioner of Buildings and General Services that are in existence prior to the effective date of this act shall be renewed at fair market value by July 1, 2019.

(b) The Commissioner of Buildings and General Services shall evaluate whether to sell any State-owned building, structure, or other real property that is being leased under fair market value.

Sec. 24. AGENCY OF AGRICULTURE, FOOD AND MARKETS AND  
AGENCY OF NATURAL RESOURCES LABORATORY

Notwithstanding the authority contained in 29 V.S.A. § 164, the Department of Buildings and General Services shall enter into a ground lease or other similar legal instrument with Vermont Technical College for the purpose of locating the Agency of Agriculture, Food and Markets and Agency of Natural Resources' collaborative laboratory on the Vermont Technical College campus in Randolph, Vermont.

Sec. 25. NAMING OF STATE BUILDINGS AND FACILITIES

On or before January 15, 2016, the Commissioner of Buildings and General Services and the State Librarian shall recommend to the House Committee on Corrections and Institutions and the Senate Committee on Institutions an appropriate State agency or department to name State buildings and facilities.

Sec. 26. 29 V.S.A. § 821(a) is amended to read:

(a) State buildings.

\* \* \*

(13) “Vermont Agriculture and Environmental Laboratory” shall be the name of the State laboratory in Randolph.

\* \* \*

Sec. 27. 2014 Acts and Resolves No. 178, Sec. 37 is amended to read:

Sec. 37. COUNTY COURTHOUSES; PLAN

(a) Pursuant to the restructuring of the Judiciary in 2009 Acts and Resolves No. 154, the Court Administrator ~~and~~, in consultation with the Commissioner of Buildings and General Services, shall evaluate:

(1) the scope of the State’s responsibility for maintaining county courthouses, including Americans with Disabilities Act (ADA) compliance and;

(2) whether an emergency fund is necessary for construction or renovation projects at county courthouses;

(3) the current ownership and maintenance responsibilities for each county courthouse; and

(4) parameters for determining the county’s share of maintaining county courthouses in the future.

(b) On or before January 15, ~~2015~~ 2016, the Judiciary shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the results of the evaluation.

Sec. 28. 2014 Acts and Resolves No. 178, Sec. 17 is amended to read:

Sec. 17. 2011 Acts and Resolves No. 40, Sec. 26(c) is amended to read:

(c) ~~The~~ Notwithstanding 29 V.S.A. § 166, the Commissioner of Buildings and General Services is authorized to do any or all of the following with respect to the Vermont health laboratory located at 195 Colchester Avenue in Burlington:

(1) investigate all potential uses of the land and building, including redeveloping the land, provided that it is consistent with existing deed covenants; ~~and~~

(2) enter into agreements and execute any necessary documentation to release or extinguish any of the existing deed covenants with respect to the land; and

(3) convey by quitclaim deed any interest in the building as is with no warranties and no representations as to conditions to the University of Vermont.

Sec. 29. 2013 Acts and Resolves No. 51, Sec. 2, as amended by 2014 Acts and Resolves No. 178, Sec. 1, is amended to read:

Sec. 1. 2013 Acts and Resolves No. 51, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

\* \* \*

(c) The following sums are appropriated in FY 2015:

\* \* \*

(13) Permanent secure residential facility, proposal for siting ~~and design~~  
(as described in Sec. 40 of this act): \$50,000.00

Sec. 30. SECURE RESIDENTIAL FACILITY; PLAN FOR SITING AND DESIGN

(a) The Secretary of Human Services shall conduct an examination of the needs of the Agency of Human Services for siting and designing a secure residential facility. The examination shall analyze the operating costs for the facility, including the staffing, size of the facility, the quality of care supported by the structure, and the broadest options available for the management and ownership of the facility.

(b) The funds appropriated in 2013 Acts and Resolves No. 51, Sec. 2, as amended by 2014 Acts and Resolves No. 178, Sec. 1, and Sec. 28 of this act, shall only become available to the Department of Buildings and General Services after the Secretary of Human Services notifies the Commissioner of Finance and Management that the examination described in subsection (a) of this section is completed.

(c) On or before February 1, 2016, the Secretary of Human Services shall present the results of the examination described in subsection (a) of this section to the House Committees on Appropriations, on Corrections and Institutions, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions.

Sec. 31. 29 V.S.A. § 156 is added to read:

§ 156. CITY OF MONTPELIER DISTRICT HEAT PLANT  
MAINTENANCE RESERVE FUND

(a) There is established a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5 known as the City of Montpelier District Heat Plant Maintenance Reserve Fund.

(b) The Fund shall comprise payments from the City of Montpelier for the City's share of the maintenance of the District Heat Plant.

(c) Monies in the Fund shall be available to the Commissioner of Buildings and General Service for the maintenance of the District Heat Plant upon commencement of the District Heat Plant's operations.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

Sec. 32. LAND TRANSFER; DUXBURY; MEMORANDUM OF UNDERSTANDING

(a) The Commissioner of Forests, Parks, and Recreation shall enter into a memorandum of understanding (MOU) with the Town of Duxbury regarding the Town's use of any State-owned parcel in Camel's Hump State Park that may be conveyed to the Town.

(b) On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the status of the MOU described in subsection (a) of this section.

\* \* \* Education \* \* \*

Sec. 33. SCHOOL CONSTRUCTION AID AWARDS

It is the intent of the General Assembly that the House Committees on Corrections and Institutions and on Education, and the Senate Committees on Institutions and on Education develop a plan to evaluate strategically the statutory process set forth in 16 V.S.A. § 3448 for awarding State aid for school construction.

Sec. 34. VERMONT INTERACTIVE TECHNOLOGIES

(a) On or before January 15, 2016, the Secretary of Administration and the Executive Director of the Vermont Interactive Technologies (VIT), or its successor entity, shall examine and submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the ownership of all VIT property funded in whole or in part by a capital construction act.

(b) During the 2016 legislative session, the General Assembly shall determine the ownership of VIT's property based on the report described in subsection (a) of this section. No State or private entity shall assume ownership of the property until the General Assembly makes this determination.

\* \* \* Information Technology \* \* \*

Sec. 35. JUDICIARY; CASE MANAGEMENT SYSTEM; REPORT

Prior to finalizing vendor selection for the case management system described in Sec. 5 of this act, the Judiciary shall present a report to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the Joint Legislative Criminal Justice Oversight Committee established in the Fiscal Year 2016 Appropriations Act. The report shall include a description of the Judiciary's process and rationale for choosing the vendor, whether the Judiciary incorporated any recommendations from the Special Committee on the Utilization of Information Technology in Government established in the Fiscal Year 2016 Appropriations Act, and whether any efforts were made to integrate the case management system with any systems implemented by the Department of State's Attorneys and Sheriffs and the Office of the Defender General. The reporting requirement of this section may be satisfied by providing testimony to the Committees.

#### Sec. 36. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a two-year staff position, or the JFO shall hire a consultant, to provide support to the General Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Administration and the Chief Information Officer shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology project, as requested; and

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that they are reviewing and that such requests are provided to the JFO in a confidential manner.

(c) The JFO shall enter into a memorandum of understanding with the Executive Branch relating to any work conducted by IVV firms that shall protect security and confidentiality.

(d) In fiscal years 2016 and 2017, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 3(b) and (c) of this act to fund activities described in this section.

(e) On or before January 15, 2017, the Secretary of Administration and the JFO shall submit reports to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the effectiveness of the position described in subsection (a) of this section and whether the process

of conducting independent legislative reviews of State information technology projects and operations should be continued.

\* \* \* Judiciary \* \* \*

Sec. 37. LAMOILLE COUNTY COURTHOUSE; MEMORANDUM OF UNDERSTANDING; OPERATING AGREEMENT

(a) The Department of Buildings and General Services and the Lamoille County side judges, in consultation with the Judiciary, shall enter into a Memorandum of Understanding (MOU) regarding the construction, operation, and maintenance of the Lamoille County Courthouse. The MOU shall establish:

(1) the procedures for the operation of the Courthouse and the division of responsibilities between the State and the County; and

(2) the legal framework for ensuring that the State maintains an ownership interest in the new additions to the Courthouse, and receives a percentage of the sale price, or value in the building, equal to the percentage of capital funding appropriated to the Courthouse in the event the County decides to sell the building or to cease operations of the building as a Courthouse, or the State ceases to use the Courthouse for Superior Court functions.

(b) Any amounts repaid to the State under subsection (a) of this section shall not be in excess of the amount of the original State capital appropriation, and shall be appropriated to future capital construction acts.

(c) The Judiciary and the Lamoille County side judges shall enter into an operating agreement regarding the internal functions and use of space within the Lamoille County Courthouse.

(d) The MOU described in subsection (a) of this section and the operating agreement described in subsection (b) of this section shall be executed prior to the State's occupancy of the Courthouse.

\* \* \* Military \* \* \*

Sec. 38. DEPARTMENT OF MILITARY; CEMETERY EXPANSION PROJECT

The Department of Military may accept federal grants, gifts, or donations to support the cemetery expansion project at the Vermont Veterans' Memorial Cemetery in Randolph, Vermont.

\* \* \* Natural Resources \* \* \*

Sec. 39. 24 V.S.A. § 4753a(e) is amended to read:

(e) Loan forgiveness; drinking water.

(1) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Drinking Water State Revolving Fund (DWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

(2) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Drinking Water State Revolving Loan Fund, the Secretary of Natural Resources may provide loan forgiveness for preliminary engineering and final design costs when a municipality undertakes such engineering on behalf of a household that has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees, provided it is not the same municipality that is disconnecting the household.

Sec. 40. 24 V.S.A. § 4755(a) is amended to read:

(a) Except as provided by subsection (c) of this section, the bond bank may make loans to a municipality on behalf of the ~~state~~ State for one or more of the purposes set forth in section 4754 of this chapter. Each of such loans shall be made subject to the following conditions and limitations:

(1) no loan shall be made for any purpose permitted under this chapter other than from the revolving fund in which the same purpose is included;

(2) the total amount of loan out of a particular revolving fund shall not exceed the balance of that fund;

(3) the loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed ~~20~~ 30 years; or the projected useful life of the project, which is less, except:

(A) and without there shall be no deferral of payment except as provided, unless authorized by 10 V.S.A. §§ 1624(b) and § 1624a, or;

(B) the term of the loan shall not exceed 20 years when required by 10 V.S.A. § 1624(b); and

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title;

\* \* \*

Sec. 41. 24 V.S.A. § 4756 is amended to read:

§ 4756. ELIGIBILITY CERTIFICATION

(a) No construction loan or loan for the purchase of land or conservation easements to a municipality shall be made under this chapter, nor shall any part of any revolving fund which is designated for project construction be expended under section 4757 of this title, until such time as:

\* \* \*

(b) The bond bank may make loans to a municipality for the preparation of final engineering plans and specifications subject to the following conditions and limitations:

(1) The loan shall be evidenced by a note, executed by the municipality, payable over a term not to exceed ~~20~~ 30 years at zero percent interest in equal annual payments.

(2) The ~~secretary of natural resources~~ Secretary of Natural Resources shall have certified to the bond bank that the project:

(A) has priority for award of a planning loan;

(B) for which final engineering plans are to be prepared, is described in a preliminary engineering plan or facilities plan that has been approved by the ~~secretary~~ Secretary; and

(C) is in conformance with applicable ~~state~~ State and federal law and regulations promulgated thereunder.

\* \* \*

\* \* \* Public Safety \* \* \*

Sec. 42. TRAINING CENTER; FINDINGS, PURPOSE, AND INTENT

(a) The General Assembly finds that the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Training Center) is an asset to the State because it provides multiple agencies with the space to train people who protect the lives of Vermonters. These agencies presently include the Vermont Criminal Justice Training Council, the Vermont Fire Service Training Council, the Department of Public Safety, the Department of Corrections, and the Department of Motor Vehicles.

(b) The purpose of Sec. 43 of this act is to create a committee to govern the access to, the use and future needs of, and the capital investments in Training Center facilities so that agencies continue to enjoy access to it and so that members of the public may also be able to use the Training Center. While this committee is established to oversee Training Center facilities, it is the General

Assembly's intent that this committee shall not have jurisdiction over any training content provided at the Training Center.

Sec. 43. 29 V.S.A. chapter 19 is added to read:

CHAPTER 19. TRAINING CENTER GOVERNANCE COMMITTEE

§ 841. COMMITTEE CREATION

(a) Creation. There is created the Training Center Governance Committee to manage access to the facilities of the Robert H. Wood Jr. Criminal Justice and Fire Service Training Center of Vermont (Training Center), located in Pittsford, Vermont.

(b) Membership. The Committee shall be composed of the following eight members:

(1) the Executive Director of the Vermont Criminal Justice Training Council;

(2) the Chair of the Vermont Fire Service Training Council;

(3) an employee of the Department of Buildings and General Services, appointed by the Commissioner of the Department;

(4) the Chair of the Vermont Criminal Justice Training Council;

(5) the Chief Training Officer of the Vermont Fire Academy;

(6) an employee of the Department of Corrections, appointed by the Commissioner of the Department;

(7) the Director of the Division of Fire Safety; and

(8) a member of the State Police, appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall:

(1) Use and access. Govern the use of and access to the Training Center. In so governing, the Committee shall take into consideration the needs of the State's various agencies and members of the public in using the Training Center's facilities.

(2) Future needs and capital investments.

(A) plan for the future capital needs of the Training Center;

(B) submit a capital program plan to the Department of Buildings and General Services for the capital construction bill set forth in 32 V.S.A. § 701a and report to the General Assembly as necessary on any recommended legislative action for capital needs; and

(C) on an ongoing basis, monitor the effectiveness of any capital investments related to training needs.

(3) Performance analysis. Establish policies to ensure the facility training needs of those persons that use the Training Center are cost-effectively met, and establish performance measures for assessing on an ongoing basis how well those needs are met.

(4) Budget and rates.

(A) manage the operating budget for the facilities at the Training Center;

(B) set the rates for use of space at the Training Center;

(C) enter into and administer new contracts on behalf of the Training Center regarding the operations of the Training Center; and

(D) develop approaches to budgeting and paying for space that encourage collaboration among those persons that use the Training Center, and address future major maintenance needs.

(d) Meetings.

(1) The Committee shall meet no fewer than four times per year.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee shall elect a chair and may adopt rules of procedure.

(e) Reimbursement. Members of the Committee who are not employees of the State and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 44. INITIAL MEETING OF GOVERNANCE COMMITTEE;  
TRANSITIONAL PROVISION

(a) The Commissioner of Buildings and General Services shall call the initial meeting of the Training Center Governance Committee set forth in Sec. 43 of this act, to be held on or before September 30, 2015.

(b) The Training Center Governance Committee shall be responsible for requests for use of the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont made on and after the initial Committee meeting, but shall permit any scheduled use of the Training Center made prior to that date.

(c) The Training Center Governance Committee shall have access to any contracts regarding the operations of the Training Center that are in existence prior to the date of the initial Committee meeting.

Sec. 45. TRAINING CENTER GOVERNANCE COMMITTEE; REPORT

On or before February 1, 2016, the Training Center Governance Committee set forth in Sec. 43 of this act shall report to the General Assembly regarding the operation of its powers and duties to date and recommend any further legislative action it finds necessary.

\* \* \* Security \* \* \*

Sec. 46. STATE HOUSE SECURITY

(a) The Sergeant at Arms, in consultation with the Chair of the Capitol Complex Working Group established in 2014 Acts and Resolves No. 178, Sec. 26, is authorized to create a security and safety protocol for the State House, conduct trainings for the State House and One Baldwin Street, and install security cameras at the exterior entrances of the State House. The Sergeant at Arms may retain consultant services to complete the work described in this subsection. Any consultants retained pursuant to this subsection shall be hired by the Joint Fiscal Office and shall work through the Joint Fiscal Office under the direction of the Sergeant at Arms and the Chair of the Working Group.

(b) The Sergeant at Arms is authorized to use funds appropriated in 2013 Acts and Resolves No. 51, Sec. 2(c)(17), as amended by 2014 Acts and Resolves No. 178, Sec. 1 and Sec. 20(b) of this act, to directly conduct the work described in subsection (a) of this section or retain consultant services through the Joint Fiscal Office to conduct the work described in subsection (a) of this section.

(c) Prior to the installation, the Sergeant at Arms, in consultation with the Chair of the Working Group, shall establish a policy for the use of the security cameras described in subsection (a) of this section. The policy shall include requirements on limiting access rights to the camera and video feed, and retaining video feed for a minimum of seven days and a maximum of 30 days.

\* \* \* Effective Date \* \* \*

Sec. 47. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 2, 2015, page 951)

**Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Institutions with the following amendments thereto:

First: In Sec. 20, General Assembly, in the last sentence of subsection (a), by striking out “Office of the Legislative Council’s Deputy Director of Information Technology” and inserting Office of the Legislative Council

Second: In Sec. 32, Land Transfer; Duxbury; Memorandum of Understanding, in subsection (a), after “The Commissioner of Forests, Parks, and Recreation”, by striking out “shall” and inserting may

Third: In Sec. 46, State House Security, in subsection (c), after “retaining video feed”, by striking out “for a minimum of seven days and a maximum of 30 days”

(Committee vote: 7-0-0)

**Amendments to proposal of amendment of the Committee on Institutions to H. 492 to be offered by Senators Flory, Balint, Mazza, McAllister, and Rodgers**

Senators Flory, Balint, Mazza, McAllister, and Rodgers move to amend the proposal of amendment of the Committee on Institutions as follows:

First: In Sec. 5, Judiciary, in subsection (c), after “Appropriation – FY 2017”, by striking out “\$150,000.00” and inserting \$5,150,000.00

Second: In Sec. 7, Grant Programs, in subsection (f), after “FY”, by striking out “2016” and inserting 2017

Third: In Sec. 10, Vermont State Colleges, in subdivision (b)(2), by striking out “Laboratory” and inserting Engineering technology laboratories

Fourth: In Sec. 11, Natural Resources, in subdivisions (c)(2) and (f)(2), after “to upgrade”, by inserting and repair the walleye rearing, restoration, and stocking infrastructure

Fifth: In Sec. 18, Vermont Housing and Conservation Board, in subdivision (a)(1), by striking out “\$2,750,000.00” and inserting \$1,500,000.00, and adding a subdivision (a)(3) to read as follows:

(3) Statewide, water quality improvement or other conservation and agriculture projects: \$1,250,000.00

**ORDERED TO LIE**

**S. 137.**

An act relating to penalties for selling and dispensing marijuana.

**PENDING ACTION:** Committee Bill for Second Reading

**CONCURRENT RESOLUTIONS FOR NOTICE**

**Concurrent Resolutions for Notice under Joint Rule 16**

The following joint concurrent resolutions have been introduced for approval by the Senate and House and will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

**H.C.R. 149-157** (For text of Resolutions, see Addendum to House Calendar for May 7, 2015)